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AND

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Survey mankind from China to Peru.
Samuel Johnson.

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SOCIETY OF COMPARATIVE LEGISLATION.

D

Receipts and Payments Account for the Year ended December 31, 1925.

Cr.

	£	s.	d.	£	s.	d.
To Subscriptions:						
Government	228	18	0			
Non-Government	474	3	6	703	1	6
,, Grants:						
Law Society	21	0	0			
Lincoln's Inn	21	0	0			
Middle Temple	21	0	0			
Inner Temple	21	0	0			
Gray's Inn	21	0	0			
Government of Fiji	10	10	0			
Royal Colonial Institute	10	0	0			
Government of Hong-Kong	5	5	0			
	1	1	0	110	16	0
,, Sales of Journals, including Back Numbers				99	18	10
,, Sale of *Great Jurists of the World*				5	2	5
,, Interest on War Loan				8	0	0
				926	18	9
,, Cash at January 1, 1925:						
In hand	2	7	0			
At Bank	444	4	11	446	11	11
,, Subscriptions in arrear received during 1925				43	0	0
,, Subscriptions paid in advance				53	2	10
,, Proceeds of Advertisements for the year 1924				37	7	8
				£1,507	1	2

	£	s.	d.	£	s.	d.
By Publication of Journal:						
Printing vol. vi, pt. 4	166	8	3			
Printing vol. vii, pt. 1	130	13	6			
Printing vol. vii, pt. 2	141	4	8			
Printing vol. vii, pt. 3	113	14	0			
	552	0	5			
Add Paper for Journal	36	17	3	588	17	8
,, Salary of Secretary				250	0	0
,, Rent of Chambers	100	0	0			
Less Rent received	40	0	0	60	0	0
,, Lighting, Heating, and Cleaning of Chambers				15	13	4
,, General Expenses, including Postage				20	9	3
,, Telephone				9	15	4
,, Stationery				9	16	9
,, Audit of Accounts for the years 1923 and 1924				8	19	6
				963	11	10
,, Cash at December 31, 1925:						
In hand	5	3	5			
At bank	538	5	11	543	9	4
				£1,507	1	2

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 5% War Loan 1929/47 Bearer Bonds.

London: 48, Copthall Avenue, E.C.2.
February 9th, 1926.

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INTRODUCTION.

[*Contributed by* F. P. Walton, Esq., LL.D.]

The Society is again deeply indebted to its learned contributors in many countries for their summaries of the legislation of 1924.

The preparation of such summaries is laborious, but our contributors find their reward in knowing that the value of these reviews when collected together is undeniably great.

Not lawyers only, but students of affairs in general may find much to interest them in such a *conspectus*.

If our survey of mankind does not extend literally from China to Peru, it embraces all the same a large part of the earth's surface.

The advocates of *laissez-faire*, if any survive, will see much to disconcert them.

From their standpoint Jersey will appear an island of the blest, as it passed only one Act of importance, though it is true that this was an Act permitting women to sit in the *États*, or Legislative Assembly.

But, apart from one or two of such havens of peace, the interference of the State in human activities of every kind, its tendency to get more and more control, and its indifference to the charge of being inquisitorial are more marked every year.

Our grandfathers would have marvelled to see in some States a dairyman placed under as many regulations as if his eggs contained high explosives (p. 51) or to hear of a law which made it a misdemeanour to attend the meeting of a charitable association which had not furnished to the authorities a list of its members and officers, as is now provided by a law of Louisiana (p. 257). Nor, in their day, would legislatures have dreamed of providing health-camps for school-children at the public charges, as is done in Massachusetts (p. 259), or of empowering state officials to sterilize the feeble-minded, as in Virginia (p. 257). They would have understood better the amendment of the penal law of New York which extends the term "wayward minor" to include any female between the ages of sixteen and twenty-one who is wilfully disobedient to her parent or guardian and in danger of becoming morally depraved (p. 245).

There is an ever-increasing volume of legislation which aims at the protection of the old and of the weak, a continual extension of the field of workmen's compensation, and a noticeable crop of measures legalizing adoption.

Although on the whole the principle of freedom of contract is almost the only thing which legislators regard as somewhat sacred, we find here and there, particularly in regard to insurance policies (p. 83) and contracts with money-lenders, provisions intended to protect parties against themselves.

In Maritime Law, as will be noticed later, we have, in a British statute, a striking example of interference with contract (p. 10).

The tendency to legislation of what may be called a humanitarian character is perhaps most noticeable in America. The multifarious legislation of the separate States of the Union is a mine of interest to the student of society. But, in spite of these attempts to protect the weak, it is manifest that individualism still holds the field in the United States. There is no hesitation about interfering with the liberty of the individual upon moral grounds, as the Prohibition laws sufficiently show; but there is a strong conviction that in the industrial and economic field it is best to leave the able-bodied and able-minded to shift for themselves.

If we want to study examples of legislation of a definitely socialistic complexion we must look at Australia where we have in this year's legislation a series of laws for the control by the State of the export trade in various products.

On the other hand, it is significant that an Act of New South Wales removes from political control the essential services of water, sewerage, and drainage (p. 138). We have endeavoured in the following pages to classify some of the most important measures of the year, but a glance at the Index of this *Review of Legislation* will show the impossibility of touching on more than a small fraction of this vast bulk.

Uniformity of Legislation.—Although, as Professor Berriedale Keith observes in this review of last year, Imperial Conferences are in the habit of passing resolutions in favour of uniformity of legislation within the British Empire, the importance of this matter is frequently exaggerated. It is, in fact, only within a somewhat narrow field of legislation that uniformity presents obvious advantages. It is desirable to get as much uniformity as possible in the law, for example of bills of exchange, bills of lading, bankruptcy, copyright, the reciprocal enforcement of judgments and extradition. As to these matters a large measure of uniformity has already been reached. But in many branches of law, such as family law, or the law of real property, want of uniformity does not matter and to press for uniformity against local sentiment is likely to do more harm than good.

Canada gives us an excellent illustration of two legal systems working side by side in one State. A good deal of assimilation comes about naturally, and useful work is done by the Commission on Uniformity of Legislation (pp. 98, 110). But the Civil Law system of the Province of Quebec is deeply rooted in the soil, and the statesman who proposed to sweep it away on the plea of uniformity would be more courageous than prudent.

The two systems act and react on one another. For instance, the new Act of Ontario amending the law of contributory negligence introduces into Ontario the excellent rule of the French law of Quebec that when the plaintiff's negligence contributed to the accident he does not lose his remedy altogether, but can recover such a proportion of the damages as appears reasonable in the circumstances to the jury (or the judge) (p. 98).[1] This is much fairer than the rule of the common law, and we should do well to follow suit. The new laws of real property in England do not fall within the year under review, but we may note in

[1] Cf. *Montreal Gas Co.* v. *St. Laurent*, [1896] 26 Canadian Supreme Court Reports, 176.

passing that they have created a profound difference in the law of conveyancing and of succession to real property between the English law and the laws of other countries whose system is based upon the common law.

Many illustrations of assimilation coming about in a natural way are noted in the following pages.

Australia has now a uniform bankruptcy law for the Commonwealth which is based on British legislation (p. 125).

The Sea-carriage of Goods Act of the Commonwealth follows the British Act of 1924 with some additions (p. 128).

New South Wales has adopted the Factors Act, 1889, with some changes (p. 131). The same State has adopted the Sale of Goods Act with the modification that the doctrine of market overt is not to apply in New South Wales (p. 133). New Zealand has removed some differences between her law of Patents and the English law (p. 169).

Canada has now a Copyright Act which is to a great extent a reproduction of the British Copyright Act of 1911 (p. 56).

Palestine, which up to now has had no system of Trusts except the Moslem Wakf, has a charitable Trusts Ordinance which embodies a number of the main rules of the English law of Trusts (p. 232).

Palestine has also framed a law of criminal procedure based on English practice (p. 229).

Northern Ireland has followed English legislation as to various matters —bastardy, dangerous drugs, summer time, marriage to a deceased brother's widow, national health insurance, industrial assurance, unemployment insurance, and private bill procedure (pp. 13–18).

The Irish Free State has copied the Rent Restriction Act and the Gaming Act (pp. 52, 53).

Ontario has borrowed the Slander of Women Act, 1891 (p. 98).

Canada adopts the Deceased Brother's Widow's Marriage Act, 1921 (p. 60).

South Australia follows with modifications British legislation as to contracts with money-lenders (p. 148).

Such examples, however, give an entirely inadequate idea of the extent to which British legislation influences the Empire. The statute books of the Dominions are full of laws inspired by British Acts of Parliament.

A more unusual case is where legislation has been drafted after consultation between two governments. The Canadian Naturalization Act was prepared in consultation with the British Government (p. 55).

The Federated Malay States continue the process of assimilating their legislation with that of the Straits Settlements (p. 198).

Per contra, we notice that in Nyasaland dogs have been deprived of the immemorial right of English dogs to the first bite (p. 209).

Consolidation of Legislation.—The work of consolidation, like the task of Sisyphus, begins again as soon as it is done.

A large number of consolidating Acts have been passed and will be found collected in the Index under the head of Consolidation Acts.

Constitutional and Administrative Law.—From the constitutional point of view the legislation of the infant Irish Free State offers the greatest interest (pp. 19 *seq.*).

Few legislatures have had to face problems so difficult. To restore anything like order and peace to a country distracted and ravaged is a task which calls for heroic statesmanship.

The Act of Indemnity to protect those who took part in armed rebellion and the measures which aim at rehabilitating and compensating those who suffered deserves notice (p. 24).

The drastic terms of the Finance Act indicate the determination of the Government to put the finances of the country upon a sound basis. An income-tax of 5*s.* in the pound is a heavy burden in a country where rich people are very rare.

Power is taken to enforce its collection by particularly stringent methods. There is a provision that if an employee is in default his employer can be called upon to deduct the tax on pain of being liable for it himself.

It is noteworthy that under the Finance Act the Dominions are regarded as "foreign States," no relief being granted in respect of tax paid, for example, in Canada or Australia.

We refer to the *Review* (p. 34) for an interesting account of the history of Dail Courts and their winding-up.

The new judicial system is mentioned under the next head.

In Italy the composition and functions of the *Consiglio di Stato* have been modified (p. 237).

In Malta the Senate and Legislative Assembly have been given privileges similar to those of the House of Commons (p. 227).

In Canada there has been one of the decennial readjustments of representation in the House of Commons provided for by the Confederation Act. Based as it is upon population, the readjustment is inevitably to the disadvantage of the Maritime Provinces (p. 65).

In the Commonwealth a new system of administration has been established for the Territory of the new Federal Capital (p. 126).

Election laws show modern tendencies. Proportional Representation has been adopted in the Irish Free State (p. 48), in Alberta (p. 74), and in Malta (p. 227), and the Irish Free State makes provision for a referendum (p. 48).

The Dominion of Canada has consolidated its Election Acts and provided a uniform franchise for electors of both sexes (p. 55).

With the view of stimulating an interest in politics the Commonwealth makes voting compulsory subject to a fine of £2 (p. 125), and New Zealand imposes on all qualified persons the obligation to enrol on the list of voters (p. 173).

Jersey has made women eligible as deputies (p. 13).

The Administration of Justice.—The Irish Free State has completely reorganized the Courts, civil and criminal, under a scheme which deserves careful study and may supply useful hints for other countries (p. 37).

The new Circuit Courts in particular, of which there are now to be only eight for the whole country, ought to secure a great saving of public money. They have pretty wide jurisdiction, both civil and criminal.

Grand juries are abolished and indictments simplified.

Rather late in the day Ireland has followed the English Act (61 & 62 Vict., c. 36) allowing the prisoner to offer himself as a witness (p. 41).

In Canada provision is made for the compulsory retirement of judges who shall after inquiry have been found to have become incapacitated by age or infirmity from the due execution of their office (p. 59).

In Italy the Supreme Courts of Turin, Florence, Naples and Palermo have been abolished, leaving only the Supreme Court of Rome for the

whole Kingdom. That Court has the special task of keeping the decisions of the Inferior Courts in harmony with its own precedents (p. 237).

In Palestine there has been a reorganization of the Courts. There is a right of appeal from a final judgment of the Supreme Court to the Privy Council when the amount at stake is at least £500, and the Court may grant leave in other cases which it deems to be of sufficient general importance (p. 228).

The desire to interfere as little as possible with native customs is shown in laws of Burma and Nyasaland, where in the villages justice has been administered from time immemorial by the village head-man. In both countries village committees are constituted to advise and assist the head-man (pp. 194, 210).

In the Gold Coast (p. 201) the native chiefs administer customary law. If a chief resigned or was deposed from his "Stool" he was by old native law compelled to leave the place where he had ruled. This practice seems to have fallen into abeyance. Experience has shown the wisdom of the custom. The old chief, if allowed to stay, is apt to stir up opposition to his successor, and a law of the Colony now gives power to order his removal to some other place within the Colony.

Local Government and Public Finance.—Numerous measures under these heads will be found in the Index, but none of them seems to call for special comment.

Trade and Commerce.—In the commercial field the most novel feature is the group of enactments in Australia and New Zealand which aim at the regulating of the export trade in meat, poultry, hops, dairy produce, and canned or dried fruits (pp. 119, 120, 149, 151, 159, 167, 169, 172).

The object of such legislation is of course to secure the utmost benefit to the producer by cutting out the middleman, by preventing markets from being flooded, by securing trade connexions abroad and otherwise. Under the Commonwealth Act the Dairy Produce Control Board has power to accept control of dairy produce and to dispose of it as it thinks fit. These experiments in State Socialism will be watched with great interest. The Commonwealth also endeavours to assist various interests—meat, cattle, wine, dried fruits, by a system of bounties (pp. 120, 121).

In Southern Rhodesia the Government has made an agreement with a Cold Storage Company giving it the sole right of exporting chilled and frozen meat for twelve years, but reserving the right to expropriate the undertaking after seven years (p. 187).

Canada (p. 59), New South Wales (p. 132), and South Australia (p. 147) grapple with the problem of monopolies and mergers. In Canada there is a drastic provision that if, after an investigation, it appears that a combine exists at the expense of the public, the Governor in Council may admit articles free of duty or may reduce the duty thereon. Admirable as is the object of such laws, their application bristles with difficulties.

In Maritime Law the year under review has produced an Act of great importance, the Carriage of Goods by Sea Act. This Act gives effect to the rules agreed to at the Brussels Conference of 1922. Few legislative proposals have been so carefully examined and discussed, but after all it is by no means certain that the Act will find favour in the business world. In the case of all ordinary shipments there is no

power of contracting out, and a great deal will depend on the construction placed on this provision by the Courts (p. 10).

A Commonwealth Act provides that parties to a bill of lading of goods from Australia shall be deemed to have contracted according to the laws of the place of shipment and agreements to oust the jurisdiction of the Courts of the Commonwealth are invalid (p. 128).

Labour.—The Union of South Africa makes a bold attempt to prevent strikes by an Act making arbitration compulsory. The Act applies to all industries (including government undertakings) but excluding agriculture (p. 178).

South Australia gives to government servants, including school teachers, railway-men and policemen, the right of access to the Arbitration Court, which has power to fix wages and conditions (p. 145).

Both South Australia (p. 145) and Western Australia (p. 155) widen the scope and extend the benefits of Workmen's Compensation. In the latter State the Act gives a table of lump sums payable in respect of certain injuries. The sums range from £750 for loss of both eyes, hands or feet, to £75 for a toe-joint.

The tendency to make these Acts more liberal is seen also in the United States (p. 247).

In England and Wales the Agricultural Wages (Regulation) Act sets up a wages board for agricultural labourers (p. 4) and there are two Acts modifying in important respects the system of unemployment insurance (p. 6).

Agriculture.—The Australian Export Control Acts and the English Agricultural Wages Board have already been referred to. Farmers' Co-operative associations (p. 252) continue to spread, and there is a considerable volume of legislation concerning them.

In the Union of South Africa wine growers are prohibited from selling wine for distillation except through the society (p. 177).

Such associations in some States may make marketing contracts with their members extending over a period of years by which the members are bound to sell the specified products exclusively to or through the association. (Alberta p. 79, United States p. 253, British Columbia p. 81, New Zealand p. 170.) In some places crop mortgages may be made on crops covered by these marketing agreements (p. 253).

In Mississippi a further step has been taken to assist the farmer. If cotton or other imperishable agricultural products are stored on the farm in a building which has been inspected and approved of as a warehouse, an inspector may issue negotiable warehouse receipts (p. 253).

South Australia makes provision for stock mortgages and wool liens (p. 150).

Manitoba authorizes rural municipalities to borrow money in order to supply seed grain to farmers (p. 86).

The Union of South Africa provides for financial relief through the Land Bank to farmers in certain districts specially affected by the drought of the preceding year (p. 182).

Illustrations of various modes of government encouragement to agriculture by affording credit or loans will be found in the Index under Agricultural Loans.

Increased attention is given by legislatures to combating the attacks of insect pests and noxious weeds. References to various measures are given under Plants and under Noxious Weeds.

It is one of the curses of agriculture that a careless or incompetent farmer can cause great damage to his neighbours. It is probable that more stringent laws to enforce the proper cleaning of land may be needed.

Housing.—The Housing Act of 1924, commonly referred to as the "Wheatley Act" (p. 8), did not repeal the "Chamberlain Act" but offered an alternative scheme. It has, we believe, been applied less than was anticipated. In England there has been a distinct improvement in the situation brought about partly by the operation of these Acts, and, perhaps, still more by the revival of private enterprise; but none the less in many of the towns the lack of houses presents a most serious problem to local authorities.

Northern Ireland (p. 17) and the Irish Free State (p. 52) are attempting by means of Government subsidies to make up the shortage of houses.

Liquor Control.—In the Irish Free State (p. 50) the movement in favour of more restrictive legislation resulted in an Act of which the main features are early closing and strict provisions as to the forfeiture of licences.

In Canada and Newfoundland the tendency seems to be towards Government monopoly, which has been adopted after a trial of prohibition in Saskatchewan (p. 112) and in Newfoundland (p. 115).

Motor Traffic.—The rapid development of motor traffic, the large number of accidents caused by reckless driving, and the frequency of thefts of motors have occupied the attention of legislators, particularly in the United States (p. 248).

It is estimated that at the present time there are about 20,000,000 motor licences current in the United States, and that motor vehicles cause 19,000 deaths a year as well as a vast number of bodily injuries.

Even in Great Britain we can point to 3,525 fatal accidents from this cause in 1925.

So far, legislation has availed little to check furious driving, and it is pretty clear that much sterner penalties upon offenders will be necessary. In Victoria, owners of motor omnibuses are bound to insure for at least £3,000 per omnibus, against the risk of liability for damages on account of injury to the person (p. 150).

Land Laws and Real Property Law.—The Irish Free State is endeavouring to complete the work begun in 1870 by the British Government of converting Irish agricultural tenants into owners (p. 42). Mainly through the operation of Wyndham's Act, 400,000 holdings have already become the property of the tenants. It is hoped that the new Land Act will result in the remaining 70,000 tenants buying their farms.

The Conveyancing (Scotland) Act contains a large number of minor amendments, makes possible some simplifications of title, and gives more concise forms; but it is, on the whole, on conservative lines (p. 9).

In New Zealand (p. 159) the Land Transfer Act is expected to bring the whole of the country under the land transfer system within five years. All old titles will then have been registered and for the future registration will be compulsory. This is a notable achievement.

The ancient rights of dower and curtesy, in their practical application, may still be studied in some of the United States, though with various modifications (p. 244). The tenderness of legislatures towards these relics is characteristic.

Marriage and Divorce.—New laws under this head are less important than usual.

Marriage with a deceased brother's widow is legalized in Canada (p. 60), and in Northern Ireland (p. 16).

In France divorced persons, one of whom had afterwards contracted another marriage followed by a second divorce, could not remarry each other. Remarriage is now lawful subject to certain conditions (p. 234).

In Mississippi the Chancellor in the case of divorce for adultery has power to forbid the remarriage of the guilty party (p. 260).

Canada, like the United States, preserves a good deal of the English law which has disappeared in England.

In Saskatchewan the consent of parents is still necessary for the marriage of their minor children, but if a child is over eighteen it may appeal to the Court from the decision of the refractory parent (p. 108).

In France the law as to consent of parents and the *actes respectueux* has been simplified (p. 233).

Town Planning.—In the United States there is a large volume of legislation upon town planning. Many cities have adopted "zoning" plans, and the zoning ordinance prescribes the class of buildings allowed to be erected in each zone, the restrictions as to height, size and manner of occupation varying in the different zones. In Boston some districts are expressly set apart for single residences. In Louisiana some districts are confined to negroes (p. 250).

Dangerous Drugs.—A continual fight is being carried on against the abuse of dangerous drugs, especially opium and cocaine.

Canada has a consolidating Act imposing severe penalties (p. 60).

The United States (pp. 240, 247), Northern Ireland (p. 15), and Mauritius (p. 200), have made their laws more stringent. British Guiana (p. 216) and the Sudan (p. 214) prohibit the importation of opium except for medicinal purposes.

Experience shows the extreme difficulty of enforcing such laws. The small bulk of these drugs makes concealment easy, and the high profits of the illicit trade offer strong temptation to the unscrupulous. In spite of much legislation it is to be feared that in many countries the abuse of such drugs is on the increase.

Women.—The tendency of legislation everywhere is towards the principle of equality of the sexes as to legal rights and duties.

Louisiana no longer classes married women with lunatics and minors as incapable of contract (p. 243).

New York gives no preference to males as guardians of minors (p. 243).

Massachusetts subjects a deserting wife to the same penalties as a deserting husband (p. 244).

New York establishes the rule of equal pay for equal work for men and women teachers (p. 259).

Children.—The care of children by way of restrictions on child labour, by attention to hygiene in schools, and by founding institutions for children neglected by their parents or suffering from grave disability, bodily or mental, has engaged the attention of many legislatures.

In penal laws the tendency is to deal gently with "wayward minors," to use the pretty expression of the penal law of New York (p. 245) and to try preventive treatment.

New Zealand (p. 164) has an Act on the lines of the British Statute of 1908 making provision for Borstal Institutions. There is a system of payment of wages for work done by the inmates.

Much useful work is being done by various agencies in providing for the emigration of children to new countries at an age when they can be trained to become good citizens. Some of these agencies have schools in the country of destination where the children are trained for some years before they take up their work. This method, as might be expected, has given excellent results. Other societies content themselves with finding homes for the children on their arrival in the new country. Most of the societies engaged in this work are above suspicion, but it is altogether desirable that there should be inspection and supervision.

In Ontario (p. 100) there is a new Act directed to this end.

In Saskatchewan (p. 109) there is a Superintendent of Neglected and Dependent Children and the Children's Protection Act has stringent provisions to prevent baby farming and to check the indiscriminate throwing over of children to societies.

Manitoba (p. 88) has a Child Welfare Board one of whose duties is to submit a scheme for allowances to bereaved and dependent children.

New South Wales (p. 130) has an important Child Welfare Act.

Legislation tends to improve the situation of illegitimate children.

In Alberta (p. 76), for the purposes of Workmen's Compensation, " child " includes an illegitimate child.

Nova Scotia (p. 97) provides for legitimation *per subsequens matrimonium.*

Mississippi (p. 244) enables the mother's " kindred " to succeed to an illegitimate child.

An interesting Act of New Jersey (p. 244) makes legitimate the child of a ceremonial marriage even though the marriage be subsequently annulled or declared void. This seems to go further than the doctrine of " putative " marriage admitted in France and in Scotland.[1]

There is an ever-increasing interest in the subject of adoption.

Quebec has a new law under which the adopted child, who may, apparently, be of any age, acquires all the rights, including rights of succession of a child born in wedlock (p. 106).

Quebec long ago adopted the English rule of " freedom of willing." If the French law by which children have indefeasible rights of succession had been retained it is doubtful if an adoption Act would have given to the adopted child all the rights of a lawful child of the adopting parent. Many people may be willing to adopt a child where they have a free hand as to what provision they shall make for it after their death, who would be slow to do so if the effect of the adoption was to give the child indefeasible rights.

In New South Wales (p. 131) an adopted child is placed in " practically the same position with regard to all legal and equitable rights and liabilities as a child born in lawful wedlock."

Regulation of Professions.—The tendency continues to regulate professions by requiring registration or by licences granted after examination or other proof of qualifications. In the United States there are many laws of this kind.

[1] See Aubry et Rau, *Cours de Droit Civil*, 5th ed., sec. 460, v. 7, p. 63 ; Walton on *Husband and Wife in Scotland*, 2nd ed., p. 203.

Real estate brokers, wholesale produce dealers, public accountants, plumbers, resellers of theatre tickets, are among the classes regulated in one State or another (pp. 251, 258).

Ontario has a Registration Act for Brokers and an Act for licensing dealers in Unwrought Metals (p. 97).

New South Wales has an important Act for the Registration of Nurses (p. 139) and New Zealand has a Masseurs' Registration Amendment Act declaring that chiropractors are not masseurs (p. 162).

Miscellaneous.—Many interesting laws less easy to classify must be left without mention, but among the mass we may notice the following.

In France it is now a crime to disobey an order of a Court for the payment of maintenance to spouse, children, or parents (p. 233).

In France also, commercial and industrial concerns employing more than ten men, and agricultural concerns employing more than fifteen men, are bound to employ a certain number of disabled ex-service men (p. 234).

French law is extended almost *en bloc* to Alsace-Lorraine (p. 235).

Boy scouts have been given a legal status in Australia (p. 128), Newfoundland (p. 114) and Sierra Leone (p. 206).

In the United States the diplomatic and consular services have been reorganized and combined to form the " foreign service " of the United States. Future appointments to positions below the grade of Minister are to be made after examination (p. 238).

Virginia makes it a misdemeanour to include in an advertisement statements which are deceptive and misleading (p. 245).

Louisiana penalizes putting signboards on another's land without his consent (p. 246).

New York makes it a felony to have in possession a motor which the possessor knows or has reason to believe has been stolen (p. 248).

Virginia (p. 257) tries to deal with the chronic evil of fraudulent collectors. Persons soliciting contributions must keep books which specify items and are open to inspection by the State Accountant. There are some exceptions.

There is a movement in America against the disfigurement of the landscape by advertisement boards or " bill boards," and laws restricting these have been passed in States so far away from each other as Massachusetts and Louisiana (p. 257).

Lovers of the country everywhere will wish success to such legislation, and hope for effective measures here to protect us against the monstrous advertisement boards and the hideous machinery of garages, which are ruining the beauty of the roads.

Louisiana prohibits the sale at public auction of jewellery, clocks, plated ware, etc., except by executors or pawnbrokers, or at judicial sales (p. 257).

In Canada there is a more drastic law restricting Chinese immigration. The head tax of $500, previously levied on Chinamen, is abolished as it had proved ineffective.

The new law admits only merchants and students and altogether excludes Chinese labour (p. 62).

New York and South Carolina have strict laws to enforce the teaching of the American Constitution in schools (p. 259).

New South Wales provides for the allocation of Crown lands to immigrants coming from the United Kingdom under agreement between

the Commonwealth or a State Government and the British Government (p. 137).

The State of Georgia, after a gallant effort to suppress " tips " by law, has to record its defeat (p. 258). Travellers to Washington will be interested in a law of doubtful constitutionality which attempts to regulate rates in hotels in the District of Columbia (p. 239).

These may serve as examples. For other topics we must refer to the Index. There are many other good things in our *olla podrida*.

BRITISH EMPIRE.

1. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* Cecil T. Carr, Esq., LL.D., *Editor of Statutes Revised, Statutory Rules and Orders, etc.*]

The Imperial Parliament passed forty-one public general Acts during the session of 1924. A general election followed a prorogation in October. A new Parliament was opened in December, but the Acts then passed belong to the session which lasted throughout the following year and will therefore be dealt with in the summary for 1925.

These forty-one Acts were passed while the Labour Party held office for the first time in the United Kingdom. It was a period of minority government; legislation was thus largely by way of agreed measures; neither in its financial nor in its social aspects was there any noticeable breach of continuity.

Improvement of the Statute-Book.—Various consolidation Bills were considered and advanced, but only one passed into law. This was the National Health Insurance Act, which will be mentioned later. It occupies 283 out of the total of 438 pages of the public general Acts of the session. The legislation which it repeals and replaces does not date back earlier than 1911, but already the enactments were in a tangle.

Imperial and Constitutional.—Under the "Articles of Agreement for a Treaty between Great Britain and Ireland" signed in 1921 (see 12 & 13 Geo. V, c. 4) Northern Ireland could vote herself out of the control of the Irish Free State. This she did, and thereupon under the Agreement a Boundary Commission was established. One of the three Commissioners was to be appointed by Northern Ireland, but the Agreement omitted to foresee the contingency that she might refuse to appoint. The deadlock was referred to the Judicial Committee of the Privy Council. As the result of its advice the Agreement of 1921 was varied so as to empower the British Government to make the appointment in default of Belfast. The Irish Free State (Confirmation of Agreement) Act (c. 41) gives statutory effect to this variation.

Two Acts dealt with Imperial communications. In view of the approaching termination of a ten-year contract for the supply of a telegraphic service in the British West Indies, the West Indian Islands (Telegraph) Act (c. 14) was passed to provide the necessary service for the future, to construct a submarine cable from the Turks Islands to Barbados, and to establish similar cables or wireless telegraphy between Barbados, Trinidad, British Guiana, St. Kitts, Antigua, Dominica, St. Lucia, St. Vincent, and Grenada. The Act authorizes the issue of

sums up to £400,000 out of the Consolidated Fund and provides for Treasury borrowing and for repayment by terminable annuities. There is an arrangement for sharing expenses and receipts between the United Kingdom, the Dominion of Canada and the Governments of the areas served. The operation and maintenance of the new system of communications are entrusted to the Pacific Cable Board, a body composed under an Act of 1901 of representatives of the home country, Canada, Australia and New Zealand—a happy example of practical Imperial co-operation. The Pacific Cable Act of 1924 (c. 19) gives the necessary sanction (subject to approval by the various Governments) for the Board to undertake as agent for those Governments any work by cable or wireless communication within its existing sphere of operations and within the Caribbean area. There is provision for expenses and accounts and there is authority for the Board to supply the West Indies with a news service similar to that given under the expiring contract.

India.—Previous legislation declared that, if certain high Indian officials departed from India intending to return to Europe, their offices should thereupon become vacant. The Government of India (Leave of Absence) Act, 1924 (c. 28) lightens this restriction by permitting four months' leave (with extension by special minute) once during the term of office. The officials concerned are the Governor-General, the Commander-in-Chief, Governors and members of Executive Councils. Acting appointments may be made in temporary replacement. The Act also gives statutory authority to the method in force of appointing the Commander-in-Chief (by warrant under the Royal Sign Manual).

Foreign Affairs.—After the proceedings at Lausanne in 1923 it was at last possible for Parliament to give effect to a treaty of peace with Turkey. The Act (c. 7), as in recent precedents, empowers the making of appointments, establishment of offices and issue of Orders in Council as deemed necessary for carrying out the treaty. Unlike those precedents, it has to add a scheduled list of conventions and protocols, and it authorizes Orders in Council to provide " for conferring on Courts within H.M.'s Dominions jurisdiction in cases where under the Convention respecting Conditions of Residence and Business and Jurisdiction such Courts are alone to have jurisdiction."

The Arbitration Clauses (Protocol) Act (c. 39) gives effect to a protocol signed on behalf of His Majesty at a meeting of the League of Nations in September, 1923. The proposals had been considered by a special sub-committee of which Mr. Justice MacKinnon was chairman. Under the protocol (scheduled to the Act) the contracting States recognize within limits the validity of arbitration agreements and undertake to facilitate matters of procedure and to ensure the execution of awards. The Act arranges for the stay of court proceedings in Great Britain and Northern Ireland in respect of issues to be referred to arbitration under such agreements. Another convention with foreign States (as to maritime law) will be mentioned presently.

The Fighting Services.—The customary Army and Air Force (Annual) Act (c. 5), continuing the Army Act and the Air Force Act for another year, made few changes in the law. These two arms are organized independently under their own commanding officers, but in future where a part of the Air Force serving out of H.M.'s Dominions is under the command of a general officer or colonel commandant, the power of declaring the force to be on " active service " may be exercised by him;

conversely, if a detachment of the army is under the command of an air officer, the latter may exercise a similar power. Forfeiture of military decorations or military rewards—a punishment which courts martial may inflict under s. 44 (11) of the Army Act—is enlarged in its application to the air force to include naval, military or air force decorations or rewards.

The Air Force Constitution Act of 1917 authorized the raising and maintenance of an Air Force Reserve and an Auxiliary Air Force and the application thereto by Order in Council of enactments relating to the Army Reserve and the Territorial Force. More detailed provision was made in 1924 by the Auxiliary Air Force and Air Force Reserve Act (c. 15) which gives specific power to apply Part I of the Territorial and Reserve Forces Act of 1907 and to establish county joint associations (to perform duties in respect of both the Territorial Army and the Auxiliary Air Force) or, in areas where joint arrangements are unsuitable, auxiliary air force associations. Power is also given to modify enactments so as to make a condition that an officer or man entering the Auxiliary Air Force shall agree to accept the obligation to be called out and serve within the British Islands "in defence of the British Islands against actual or apprehended attack," whether or not the reserves are then called out on permanent service. Enactments may also be adapted to the Air Force Reserve with a condition for enlistment whether or not a man has previously served in the regular Air Force, and a condition of similar obligatory service in case of actual or apprehended attack upon the British Islands. The adaptation may provide that airmen reservists so called out may be deemed called out on permanent service and be subject to the Air Force Act, and that men may be enlisted as special reservists. If His Majesty by Order in Council declares a state of emergency, a Secretary of State may direct the calling out of officers and men of the new auxiliary and reserve forces; when an Order in Council declares that the emergency no longer exists, the service may be terminated. The effect of this Act can hardly be understood without reference to the resultant adaptations, the Auxiliary Air Force Order, 1924, and the Air Force Reserve Order, 1924 (S.R. & O., 1924, Nos. 1212 and 1213). These virtually create new Acts and are a striking example of the convenient delegation of legislative power.

Finance.—The Finance Act (c. 21) makes budget adjustments as usual, varies the rate and incidence of entertainments duty, terminates the corporation profits tax at June 30, and repeals inhabited house duty. Game certificates and gun licences taken out in Northern Ireland are made available in Great Britain when and while Northern Ireland grants the converse concession. Income-tax law is modified in various ways. Agricultural societies' profits are exempted; the allowance for relatives taking charge of widowers' or widows' children, or acting as housekeeper, is raised from £45 to £60 and is extended to non-relatives; a right of appeal from the Inland Revenue Commissioners to the Special Commissioners (and, on a point of law, to the High Court) is given on questions of domicile and residence. Small amounts of tax (under £50) are to be recoverable by summary process. Companies' dividend warrants are to show the gross and net amount of the payment and the rate and amount of tax when dividend or interest is distributed. Salaries, wages, superannuation, compassionate and other allowances no longer require a receipt stamp. The relief from death duties which during the war

was given in the case of members of the fighting forces is extended to post-war cases where death results from wounds, accident or disease on active service against an enemy or on service of a warlike nature involving the same risk.

Two Consolidated Fund Acts (cc. 2 and 4), an Appropriation Act (c. 31), a Public Works Loans Act (c. 26) and an Isle of Man (Customs) Act (c. 24) contain no unusual feature. A Telegraph (Money) Act (c. 25) is also in common form. An extension of the Trade Facilities Acts will be mentioned later.

Judicial.—The County Courts Act (c. 17) carries out an overdue reform based on the principle that the State should take the court fees and should pay the court officers. Arrangements for remunerating registrars, bailiffs, clerks, etc., are standardized, and court service is made pensionable. Registrars' qualifications, duties (whole-time or otherwise) and retirement (at seventy-two unless specially retained thereafter) are provided for. The ever-increasing burdens of county court judges may be lightened by a new power given to registrars (subject to appeal to the judge) for striking out, on the application of a defendant after due notice to the plaintiff, proceedings which disclose no reasonable cause of action. Certain administrative powers, formerly exercised by Order in Council, are transferred to the Lord Chancellor. Among the miscellaneous provisions is an enactment that no court fees are to be paid by the workman in Workmen's Compensation Act cases.

Labour Legislation. — The Agricultural Wages (Regulation) Act (c. 37) sets up a wages board for England and Wales and a wages committee for each county or for combinations of counties. The wages committees are to fix minimum rates of pay for agricultural workers engaged on time work and may also, if they think it necessary or expedient, do the same for those employed on piece work. The rates may apply to the whole county or to special areas or special classes of workers. As far as it can a committee is to secure for able-bodied men such wages as it thinks are—

> adequate to promote efficiency and to enable a man in an ordinary case to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation.

Those who are not able-bodied usually suffer in their chances of employment under a compulsory minimum wage system. The Act therefore allows exemptions to be conditionally granted in respect of workers affected by physical injury or mental deficiency or by infirmity due to other cause, if a committee is satisfied that the minimum rate cannot be earned. Any worker engaged in piece work, when no minimum piece rate has been fixed, has the right to complain to his county committee that his piece-rate wages are below the equivalent of the minimum rate for time work; the committee, after hearing the employer's side of the matter, may direct the payment of an additional sum, and this sum may be recovered as a civil debt. Wages committees "shall, so far as is reasonably practicable, secure a weekly half-holiday for workers." The committees are to consist of representatives of employers and workmen in equal numbers, two impartial members appointed by the Ministry of Agriculture and a chairman. Having fixed a rate, the committee must notify the Central Board which then makes an order confirming the rate. Rates can be cancelled or varied by similar machinery. Thus the fixing of rates is entrusted to those who know local conditions and

is not governed from London, though the Central Board can act if a committee fails to do so and the Minister can direct a committee to reconsider its rates. The farmer has the onus of proving that he paid wages not less than the minimum. The penalty for underpayment is a fine of not more than £20 with a fine not exceeding £1 for every day on which the offence continues after conviction. Whether there is a conviction or not, the magistrates may order the employer to make good the difference between his actual payments and the minimum rates over a period of the last six months. An employer, if convicted, may in certain cases be made to make good any underpayments to a worker for the previous eighteen months also. An employer's agent may be prosecuted as if he were the employer, but an employer can protect himself by proving that he used due diligence to secure compliance with the Act and that the offence was committed without his knowledge, consent or connivance. The Minister of Agriculture can appoint officers to investigate complaints and secure proper observance of the Act; they must produce, on request, a certificate of their employment: on giving due notice they can take copies of wages sheets, enter premises, and require workers, employers and agents to give information. The Act defines employment as including apprenticeship and agriculture as including dairy farming and the use of land as grazing, meadow or pasture land, orchard, osier land or woodland, or for market gardens or nursery grounds. Among subsidiary matters to be dealt with by departmental regulations is the definition by a wages committee of the benefits or advantages which may be reckoned as payment of wages in lieu of payment in cash, and the value at which they are to be reckoned.

The Workmen's Compensation (Silicosis) Act (c. 40) amends an Act of 1918 which made silicosis an industrial disease in industries or processes involving exposure to silica dust, the object being attained under Home Office scheme rather than by using the machinery of s. 8 of the 1906 Act for extending the statutory schedule of industrial diseases. The 1918 Act distinguished silicosis and tuberculosis in a manner since found to be neither scientifically nor industrially justifiable. The 1924 Act removes the differentiation and provides for the suspension from work and the compensation of employees who are found to be suffering from either or both diseases, or who, when first medically examined under the scheme, are found unfit by reason of their failure to pass a prescribed standard of physique. Medical boards are added as an improvement of the arrangements of medical examination.

Pensions and Superannuation.—One of the "statutory conditions" for receipt of an old age pension under the original Act of 1908 was that the recipient should satisfy the pension authorities that his yearly means were less than £31 10*s*. The 1919 Act raised this minimum to £49 17*s*. 6*d*. The Old Age Pensions Act of 1924 (c. 33) further diminishes what is sometimes called the thrift disqualification by allowing the pensioner, in calculating means, to deduct therefrom "such part, if any, thereof, but not exceeding in any case £39, as is derived from any source other than earnings." An amendment endeavouring to define earnings was rejected.

The Pensions (Increase) Act(c. 32) raises the percentages by which pensions could be increased under an Act of 1920, abolishes residence in the British Islands as a statutory condition of increase, and makes it

no longer optional but compulsory for various local and public authorities to increase their rates of pension to the maximum.

The temporary arrangement under which school teachers contribute to their own superannuation allowances is continued by the School Teachers (Superannuation) Act (c. 12) and the Education (Scotland) (Superannuation) Act (c. 13). The cost had not been counted when the English Act of 1918 and the Scottish Act of 1919 made the teacher's pension non-contributory. Financial difficulties and the urgent need of economy led to an improvised plan for returning to a contributory basis in 1922. The 1924 Acts continue this arrangement. The payments into the Exchequer by Scottish teachers were found to be proportionately in excess of those of English teachers, *i.e.* in excess of the proportion of eleven-eightieths which is the accepted standard as between the two countries. To remedy this financial injustice to Scotland, it is provided that the Education (Scotland) Fund shall receive out of public moneys the amount of the excess.

The pensioning of county court officers has already been mentioned.

Health Insurance.—The cost of medical benefit under the system of national health insurance had again to be settled in 1924. The capitation fee allowed by law for each insured person was 9*s.* 6*d.*, but the actual cost was much more. The consequent deficiency was met for a time by Exchequer grants, but the National Health Insurance (Cost of Medical Benefit) Act (c. 10) provides the money from other sources. The money was drawn partly from the friendly societies' funds, partly from the income account of the National Debt Commissioners' health insurance investment accounts, and partly from the Central Fund (unclaimed stamps, receipts, etc.). These sources are made to furnish insurance committees in England with an extra 2*s.* 2¾*d.* per year per insured person for the period from 1924 to 1926. The additional sum in Wales and Scotland was 2*s.* 8¼*d.* and 1*s.* 10½*d.*; in all three countries a small sum is at the same time ear-marked to meet the additional expenses of the central administration.

The consolidating National Health Insurance Act (c. 38), already mentioned, leaves outstanding these temporary provisions as to cost of medical benefit, certain enactments as to sanatoria, and the 1921 Act concerning prolongation of insurance. Otherwise it repeals all the previous law of State health insurance and replaces it by a single orderly document. The consolidating Act applies (with the necessary modifications) to Northern Ireland, though that country is now competent to legislate independently upon this subject.

Unemployment Insurance.—As usual for several years past, one of the first tasks of Parliament was to modify the State unemployment insurance system still further by reason of continued industrial depression. One feature of that system was that after receipt of unemployment benefit over a certain period a three weeks' gap intervened before benefit could be resumed; the idea was that the unemployed person should have an inducement to seek work. The Unemployment Insurance Act, 1924 (c. 1), abolishes the gap and recognizes the fact that work was now not so easily found as when the system was first established.

There were two other statutes on the same topic. The Unemployment Insurance (No. 3) Act (c. 6) extends the periods of benefit in the current year from twenty-six weeks to forty-one. The original plan had fixed upon twenty-six weeks as the normal risk; workmen, it was

reckoned, will be out of employment for a time, but they will not all be out at the same time. The twenty-six weeks' calculation was unhappily upset by continuing bad trade. Another feature of the original plan had to be altered. All benefit was to be covenanted, *i.e.* the workman would pay a certain number of contributions and would then be entitled as of right to his benefit. But many workmen, owing to the shortage of work, were unable to keep up their payments; they would thus have fallen out of insurance unless they were granted what is called "uncovenanted benefit," *i.e.* benefit in advance of due payment of contributions. If this short Act had not been passed on April 15, between 100,000 and 150,000 unemployed persons would have been thrown upon the rates next day owing to lapse of benefit.

The Unemployment Insurance (No. 2) Act (c. 30) looks out of place on the statute-book since it follows the No. 3 Act (c. 6). No. 2 was in fact passed four months later than No. 3, but they retained in their short titles as Acts the numbering which they had been given as Bills. The No. 2 Act contains, in addition to a schedule of so-called "minor and consequential amendments" of the previous law, several changes in points of principle. Gaps in benefit are removed; rates of benefit are increased; benefit is to begin after three days of unemployment (instead of after a week); the power to make special schemes for particular industries—as has been done for the banking and insurance industries—is suspended; the system of refund of contributions at the age of sixty is changed to a system of compensation at the age of fifty; the position of members or ex-members of the Forces of the Crown is modified; and the time limit within which proceedings may be brought for summary recovery of unpaid contributions is extended to twelve months. The Ministry of Labour is empowered to make regulations prescribing the date when the insurance year shall begin, and deciding that, when night work begins before midnight and extends into next day, the employee shall be treated as employed on one only of the two days. In three other important respects the law is restated. First, the insured person is in certain cases "entitled to receive benefit" if he satisfies certain conditions in s. 1: amongst these is proof that—

> he is making every reasonable effort to obtain employment suited to his capacities and is willing to accept such employment.

Secondly, the statutory conditions for the receipt of benefit are altered. S. 7 of the 1920 Act is amended so that the insured contributor (i) must prove that he has paid thirty contributions at least in a certain period, (ii) must be "capable of and available for work," and (iii) must be "genuinely seeking work, but unable to obtain suitable employment." Thirdly, there is an amendment of s. 8 (1) of the 1920 Act (disqualification for receipt of benefit during a stoppage of work). The insured contributor is now not to be disqualified if he—

> proves that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work, and that he does not belong to a grade or class of workers members of which are participating in or financing or directly interested in the dispute, or that the stoppage is due to an employer acting in a manner so as to contravene the terms or provisions of any agreement existing between a group of employers where the stoppage takes place or of a national agreement to either of which the employers and employees are contracting parties.

Relief of Unemployment.—Elsewhere Parliament attempts to miti-

gate trade depression and its unhappy consequences. In the hope of providing fresh work the Trade Facilities Act (c. 8) increases the amount of the loans which may be guaranteed and extends the power to give guarantees (both under the Trade Facilities Acts and the Overseas Trade Acts). The Treasury may contribute for five years (with a limit of a million pounds a year or five millions in all) towards the interest on loans raised in the United Kingdom by Dominion Governments or local authorities or by public utility undertakings, provided that the loans are for approved capital expenditure on a public utility undertaking in some part of H.M.'s Dominions and that the expenditure is in anticipation of normal outlay and will promote employment in the United Kingdom.

The burden of relieving the unemployed was heavy upon local authorities. The Poor Law Emergency Provisions Continuance (Scotland) Act (c. 9) carries on for another year the power (first granted in 1921) to grant poor relief in Scotland to destitute able-bodied unemployed and allows parish councils to give relief in the form of assistance towards emigration. The Local Authorities (Emergency Provisions) Act (c. 29) carries on for two more years temporary arrangements (made in 1921 and continued in 1923) enlarging the charge upon the Metropolitan Common Poor Fund and removing limits on the borrowing powers of local authorities.

Housing.—Successive Ministers of Health having left upon the statute-book their several efforts to remove the shortage of housing, Mr. Wheatley in 1924 contributed the Housing (Financial Provisions) Act (c. 35). It seeks to encourage local authorities to build houses for letting rather than for sale. It does not repeal Mr. Neville Chamberlain's Housing Act of the previous year, but in part applies it by extending the subsidy scheme to a fifteen-year programme of construction. There is an increased Government subsidy of £9, or in an agricultural parish £12 10*s*., for forty years (in place of £6 for twenty years) for houses built subject to "special conditions." These conditions are that the house when built shall be let at a pre-war rent, that the tenant shall be restricted from assigning, sub-letting, or otherwise parting with possession, that the house shall not be sold by the local authority or other builders without reference to the central authority, that a fair wages clause be inserted in the building contracts, and that, where the local authority is providing the house, reasonable preference shall be given to large families. The Act empowers the English and Scottish central departments concerned with housing to make an order terminating the Government's liability to contribute if in 1927 or any third succeeding year the total of houses completed does not reach a fixed standard (whether the deficiency is due to failure of labour supply, want of adequate apprenticeship or otherwise or to failure of supply of materials at reasonable prices or to failure of financial resources), or if on independent inquiry the cost of construction has been unreasonable. In October, 1926, and every second year afterwards the central authorities may revise the rates of contributions on uncompleted houses. Local authorities proposing to build under the Act must show that they have taken into account the requirements of town planning schemes in their neighbourhood and that the rate of density of the houses will not exceed eight per acre in agricultural parishes and twelve per acre elsewhere; they can suspend building operations on account of excessive cost or for other

reasonable ground. The central authority, when approving proposals for house construction under the Act, is not to—

> impose any condition which would prevent the materials required being purchased in the cheapest market at home or abroad or which would require the employment of any particular trade.

If local authorities unreasonably refuse to adopt a new material or new method of construction they may be required to reconsider their refusal, and a deduction can be made from the State contribution if unnecessary expense is incurred for want of such adoption. The Act has a schedule of minor amendments of the previous law; one of them states that the fixed bath which every subsidized house must contain is to be a bath in a bathroom.

Landlord and Tenant.—On the edge of the housing question lie the Rent and Mortgage Interest Restriction Acts, which were once more modified in 1924. S. 4 of the 1923 Act (replacing s. 5 of the 1920 Act) sets out the grounds on which the owner of a house was still allowed to get possession of it. *Inter alia* the landlord could obtain possession if he reasonably required the house for occupation as a residence for himself or for his son or daughter over eighteen years of age, though there was a clause (complicated as all this kind of legislation must be) relating to the availability of alternative accommodation for the outgoing tenant. This clause is altered by the Prevention of Eviction Act of 1924 (c. 18). The result is that a landlord may evict, without showing that alternative accommodation exists, if he (not being a landlord who has been landlord by purchase after May 5, 1924) reasonably requires the house for himself or his son or daughter over eighteen, and the Court is satisfied—

> having regard to all the circumstances of the case, including any alternative accommodation available for the landlord or the tenant, that greater hardship would be caused by refusing to grant an order or judgment for possession than by granting it.

The Small Debts (Scotland) Act (c. 16) enlarges the power of the sheriffs and justices when making directions for payment of arrears of rent by instalments. The directions may now include conditions as to punctual payment of future instalments; on failure to comply with such conditions the direction may be rescinded or varied as the Court shall think fit. The Act also alters the law of wages arrestment in Scotland. A statute of 1870 provided that, if wages exceed 20*s*., the surplus is liable to arrestment. The 1924 Act raises the limit to 35*s*.

Law of Property.—The Conveyancing (Scotland) Act (c. 27) was the product of the committee of eminent Scottish lawyers appointed in 1911 by the then Lord Advocate to recommend improvements of the general law. The Act follows up a suggestion made by a Royal Commission of 1905, presided over by Lord Dunedin, which examined the question of introducing registration of title into Scotland, and came to the conclusion that much might be done in other ways to simplify the Scottish system of conveyancing. Its chief features—so far as the ignorance of an Englishman can discriminate—are the reduction of the period of prescription of heritable rights from twenty years to ten, a notable simplification of the method of ascertaining and commuting rights of terce and courtesy (*i.e.* rights of a widow or widower in the estate of her or his deceased husband or wife), the adoption of a plain notice of

title in the place of the cumbrous notarial instrument, and the provision of a number of concise forms. The General Register of Inhibitions and Interdictions is to be combined with the Register of Adjudications. Real warrandice is abolished; so is the requirement of judicial ratification by a married woman; the law of *jus relictæ* is assimilated to the law of legitim; feu-duties in future are to be payable in sterling money, and there is to be no stipulation for payment in grain or other fungible. Other sections relate to disposition by persons uninfeft, completion and deduction of title, assignation of unrecorded disposition or bond and disposition in security, ground-annuals, consolidation of superiority and property, allocation of feu-duty, and notarial execution on behalf of persons who are blind or unable to write. On the whole the Act makes no clean sweep of ancient technicalities. The changes are largely permissive. The simplifications now introduced are mainly offered as alternatives to the former practice. Those who wish to see how far the old law is superseded will look in vain for a schedule of repeals.

Maritime Law.—At the International Conference on Maritime Law held at Brussels in October, 1922, the delegates unanimously agreed to recommend their respective Governments to adopt a draft convention for the unification of rules relating to bills of lading. Another meeting at Brussels a year later amended the draft, largely in favour of the owner of the goods.[1] The Carriage of Goods by Sea Act (c. 22) adopts the amended convention and applies it to ships carrying goods from any port in Great Britain or Northern Ireland to any other port whether within or without Great Britain or Northern Ireland, a modification being made for coasting vessels. The absolute warranty of seaworthiness disappears where the Act applies; it is replaced by a duty on the carrier to exercise due diligence (both before and at the beginning of the voyage) to make the ship seaworthy, to man, equip and supply it properly, and to make holds, etc., fit and safe for the reception, carriage and preservation of cargo. The carrier must also use due care in loading, stowing, carrying, keeping and discharging the goods. He cannot contract himself out of liability for negligence in any of the foregoing matters. On the other hand for nautical, as contrasted with commercial, negligence he is not liable. Other responsibilities and liabilities, rights and immunities of the parties are set out in the rules. The Act directs that all bills of lading shall expressly state that they have effect subject to the rules as applied by the Act. On the question of contracting out, the parties may make special agreements, not in respect to ordinary commercial shipments made in the ordinary course of trade, but only in respect to other shipments where the character or condition of the property to be carried, or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement. It remains to be seen whether courts of law will construe this provision in a manner which will reconcile business men to the loss of their power of unrestricted agreement. The rules may be found to require further amendment but they are a step forward towards the unification of maritime law.

London Traffic.—"London" has various meanings in relation to the City, the county, the water supply or the police district. But none of these areas is so large as the new one created by the London

[1] See articles by Mr. C. R. Dunlop, K.C., in *Journal of Comparative Legislation*, Third Series, vol. iv, pt. i, p. 24, and vol. v, pt. iv, p. 258.

Traffic Act (c. 34). It includes the counties of London and Middlesex and a good deal of Buckinghamshire, Essex, Hertfordshire, Kent and Surrey; thus it is recognized that the traffic difficulties of the home counties may begin in London and *vice versa*, and that the problems created by the week-end motorist or by the seasonal attractions of Epsom must be studied along with the vehicular congestion at Charing Cross or Hyde Park Corner. The Act creates an Advisory Committee which is to consider and report upon traffic questions and advise the Ministry of Transport. On the Committee are representatives of all the local authorities concerned, as well as of the Home Office, Ministry of Transport and the Metropolitan and City police; there are three additional members representing "the interests of labour engaged in the transport industry within the London Traffic Area," and four representing "persons providing means of transport and users of mechanically propelled and horse-drawn road vehicles." One obvious difficulty of London traffic was that some forty different bodies had power to tear up the streets without regard for the operations of one another or the public convenience. The Act requires all road authorities to submit half-yearly programmes of road maintenance and improvement: the Advisory Committee is to report upon these and the Minister then draws up schemes prescribing the times for such works and the order of their execution, and restricting unnecessary operations. Other statutory undertakers (including Government departments) are to have notice of the proposals and are to conform, subject to provision for emergencies. Obstructions due to excavated matter, barricades, etc., are to be reported by the police to the road authority; the latter, after inspection, may require the mitigation or discontinuance of the obstruction and, if nothing is done, may act and recover the cost. To regulate the multiplication of omnibuses, which has been another cause of congestion, the authorities which license omnibuses are given power to define "approved routes" for regular services, When licensing an omnibus, they may add conditions excluding it wholly or partly from an approved route or confining it to such routes or stipulating that it shall not ply for hire except in maintaining a regular service. Applicants for licences are to submit schedules of routes, times of proposed services, the maximum numbers of vehicles, the divisions of the stages and the proposed fares for each stage. Their competitors along those routes are to be informed and to have a right of appeal to the Ministry. A licensee who breaks a condition as to maintaining a regular service or who uses more omnibuses or who charges higher fares than his approved schedule specifies, may be fined on summary conviction; on a second or subsequent offence he may have his licence or licences suspended or revoked—a penalty perhaps more likely to be enforced against a small firm than against a big combination, and not less serious on that account. There is an appeal to the Minister against revocation or suspension of licences, but a sentence of a fortnight's suspension might well expire before the appeal was heard. Another experiment in traffic relief is the power of the Minister of Transport to make "restricted streets orders" within the area of the City of London and the metropolitan police district. If he thinks he is justified by the width of the street, density of traffic, existence of alternative methods of transport or the excess of existing omnibus accommodation, he may prohibit or restrict omnibus traffic in a street either generally or during particular hours, and may limit the number

of journeys or determine the omnibus proprietors whose vehicles alone shall be allowed in the street. Here again there are penalties varying from a fine to the loss of all licences. Part of the Act gives statutory effect to what had formerly been a matter of police regulations or by-laws. It is now definitely an offence to disregard the traffic directions of a policeman in uniform. The Minister may make regulations of many kinds as to traffic routes, particular streets, speeds of different kinds of vehicles, turning-places, loading, collection of refuse, driving of animals, traffic notices, broken-down or unattended vehicles, parking-places, cab ranks, sandwichmen, passenger queues and priority of entry into public vehicles ; no specific reference, however, is made to two recent developments with which London is now familiar—obedience to white lines, or compulsory gyration.

The Advisory Committee may hold inquiries ; the Minister may inquire into the cause of accidents. An attempt is made to limit combinations of licence-holders : omnibus proprietors must furnish full particulars of any agreement under which their business is controlled in any way by anyone engaged in providing transport or manufacturing vehicles or equipment, and must give details of any holding or interest in any company so engaged. The grant of licences is not to create a vested interest ; if a local or public authority purchases a transport undertaking compulsorily, the value of the schedules is not to be taken into account. The Act is temporary and, as at present enacted, will expire after November, 1928.

Miscellaneous.—The Diseases of Animals Act (c. 3), occasioned by an exceptional visitation of foot-and-mouth disease, once again removes the statutory limit on the money annually provided by Parliament for expenditure over the slaughter of animals, etc.

The British Museum Act (c. 23) enables the Trustees to lend for public exhibition in any gallery or museum under the control of a public authority or university in Great Britain any duplicates of books, prints, medals, coins, etc., or any object, not a duplicate, which can be temporarily spared without injury to the interests of students or ordinary visitors to the British Museum.

Where a marriage in England appears invalid or doubtful by reason of informality, the Home Secretary has had power since 1905 to put things right by a Provisional Order, thus saving the expense of a special Act. The Marriages Validity (Provisional Orders) Act of 1924 (c. 20) enacts that such orders may contain supplemental and incidental provisions such as relieving from liability ministers who have solemnized the marriage. Without this enactment such provisions were possibly *ultra vires*.

The Friendly Societies Act (c. 11) throws the office of Chief Registrar open not only to the legal profession but also to assistant registrars with five years' service. The Act also increases the amount for which children's lives may be insured by friendly societies and trade unions. The increase was justified by the higher cost of funerals and other expenses and it placed the societies in the same position as industrial assurance companies had reached under an Act of 1923. Opportunity was taken to delete from the 1923 Act an unfortunately worded clause noticed in this summary a year ago.

The Local Authorities Loans (Scotland) Act (c. 36) permits the Secretary for Scotland to make regulations enlarging the powers of Scottish

local authorities to issue stock of various kinds and on various terms and conditions.

Legislation otherwise than by Public General Act.—Parliament passed 99 Local Acts in 1924 as against 108 in 1923. There were two Private Acts. Six Church Assembly Measures, taking effect under the machinery set up by the Church of England Assembly (Powers) Act of 1919, received the Royal Assent; two of these, relating to the union of benefices (outside the City of London) and to ecclesiastical dilapidations, are substantial replacements of Acts of Parliament. In the field of delegated or departmental legislation 1,602 Statutory Rules and Orders were registered as against 1,624 in 1923; amongst these were an important group relating to national health insurance, the Ministry of Health having followed up the consolidating Act with a consolidation of the regulations flowing therefrom.

2. ISLE OF MAN.

[It is hoped to publish this summary of legislation in the next *Review*.]

3. JERSEY.

[*Contributed by* E. T. Nicolle, Esq., *Vicomte of Jersey*.]

The legislation in Jersey for the year 1924 is very brief, and the only Act of importance is the following:

Legislative Assembly.—A law passed by the States was confirmed by Order in Council dated March 21, 1924, which permits a woman, being a British subject, *sui-juris*, and thirty years of age or over, to be elected as a Deputy of the people in the States (Legislative Assembly).

4. NORTHERN IRELAND.

[*Contributed by* Sir Arthur Quekett.]

The fourth session of the first Parliament of Northern Ireland was opened by the Governor on Tuesday, March 11, 1924, and was brought to a close by prorogation on Friday, November 7, 1924. Thirty-four Acts were passed, including five local Acts. Some of these are not dealt with in this Summary because they relate to supply and appropriation or to minor matters of purely local interest or of an administrative character.

Children (Affiliation Orders).—The Illegitimate Children (Affiliation Orders) Act [Northern Ireland] (c. 27) sets up a procedure for recovering, from the putative father of an illegitimate child, the sums necessary for the maintenance and education of the child and incidental to its birth or death. This statute may be described in general terms as applying the English bastardy law to Northern Ireland in a codified form. It is confined to affiliation proceedings and has no reference to legitimation or adoption. A valuable and comprehensive study of the Act in its various aspects has already been contributed to this *Journal*[1] by a Senator of Northern Ireland (Mr. J. G. Leslie); accordingly, it will suffice for the

[1] *Journal of Comparative Legislation*, Third Series, vol. vii, pt. iv, p. 185.

purposes of this Summary merely to mention the chief provisions of the measure.

S. 1 gives power to a Court of Summary Jurisdiction (consisting of a single resident magistrate) to hear the case, adjudge a man to be the putative father, and make an Affiliation Order upon him. S. 2 deals with the issue of the summons for the appearance of the alleged father at the hearing. The summons may be issued by any one ordinary justice of the peace, but it cannot be issued unless the mother has made an information in writing upon oath as to the paternity of the child. S. 3 deals with the duration and effect of an Affiliation Order when made, and provides that neither the death of the mother nor of the father is to prevent the child from receiving benefit under the Order, once it has been made upon proper evidence. S. 4 provides that weekly sums payable for the benefit of the illegitimate child may be commuted under the supervision of the Court for a lump sum. S. 5 enables an agreement for weekly payments or for a lump sum, made outside the Act, to be sanctioned by the Court, and, when sanctioned, to be a bar to further proceedings to obtain an Affiliation Order. S. 7 gives a right of appeal to the county court judge or recorder, and s. 8 provides for the appointment of "collecting officers," through whom payments under Affiliation Orders may be paid and recovered.

Marketing of Eggs.—The improvement of the grading and packing of eggs intended for outside markets is the primary object of c. 15. The Act provides, in the first place, for the licensing by the Ministry of Agriculture of wholesale dealers in eggs. A licence is to be issued to any applicant who undertakes to comply with such conditions, in relation to the preparation for sale and the consignment of eggs, as may be prescribed by that Ministry in order to secure the proper testing, grading and packing of the eggs, and their freshness and fitness for human food. The Act makes it an offence for a person to carry on business as a wholesale dealer in eggs without being licensed for the purpose. C. 15 also contains provisions for the registration of premises where eggs are preserved; for the marking of packages containing preserved, cold-stored or pickled eggs; for the provision and maintenance of packing accommodation at egg markets; and for the strengthening of the existing law as to eggs unfit for food. Offences against the Act are punishable summarily by fine, the maximum amount varying, according as the offence is the first or a subsequent one, from £20 to £100; in the case of the third or subsequent offence a person may be sentenced to imprisonment for a term not exceeding three months, if the offence, in the opinion of the Court, was committed by the personal act, default or culpable negligence of the person accused.

Public Libraries.—C. 10 makes the county council of each county the local authority for carrying the Public Libraries (Ireland) Acts, 1855 to 1920, into execution in rural districts in the county. For this purpose, the Act constitutes a county library committee acting under the county council, but including representatives of the rural district councils concerned. The Act, although it does not take away the powers of urban library authorities, enables those authorities, by agreement, to relinquish their powers under the Public Libraries Acts in favour of the county council, and, in that case, gives to them also representation on the county library committee. The Act also enables library authorities to co-operate with voluntary agencies.

Char-à-banc Regulations. — C. 7 is based upon recommendations made by a departmental committee. Prior to the passing of this Act, the majority of town authorities in Northern Ireland did not possess powers with respect to the licensing and regulation of char-à-bancs, omnibuses and similar vehicles. Their powers over hackney carriages were derived from the Towns Improvement (Ireland) Act, 1854, under which "stage coaches" plying for passengers to be carried at separate fares were excluded from the definition of the term "hackney carriage." A similar shortcoming in the Town Police Clauses Act, 1847, was remedied by the amending Act of 1889. In theory, this amendment was applicable to Ireland, but it had little practical effect, because the Irish Act of 1854 was in force in the great majority of towns and not the general Act of 1847. S. 1 of the Act now under review is similar in effect to the Town Police Clauses Act, 1889. In effect, it applies to char-à-bancs, etc., the general law on the subject of the licensing of hackney carriages. S. 2 gives effect to a recommendation of the departmental committee, that each town authority should be required to fix one day in each of the three months of April, May and June in each year as the days on which licences for char-à-bancs are to be issued. This section also contains a minor amendment of the law as to prosecutions for offences in connexion with char-à-bancs. S. 3 is based upon the recommendations made by the departmental committee that town authorities should be empowered to make by-laws determining the places where char-à-bancs and similar vehicles may stand for hire; the number of vehicles which may be permitted to stand on each assigned place; and the places where vehicles may be "parked" while waiting to take up positions on the assigned places, or to commence a return journey. The power of making by-laws is also extended so as to enable provision to be made for the inspection of char-à-bancs, for ensuring their fitness for public hire, and for preventing the use of unfit vehicles. S. 4 strengthens the provisions for the prevention of overcrowding in char-à-bancs on public roads. The evil is not one which can be fully dealt with by the local authorities who license char-à-bancs, because these authorities act for urban areas only, and their powers do not enable them to deal with disorder taking place in connexion with char-à-bancs on public roads outside their jurisdiction. The Summary Jurisdiction (Ireland) Act, 1851, did, in fact, create offences in connexion with the overcrowding of certain vehicles on public roads as well as in the streets of towns; and s. 4 of the new Act expressly applies this provision to all char-à-bancs and omnibuses, and makes it operative throughout Northern Ireland, and not in the urban areas only. The section does not create any regulating and licensing authority for non-urban areas and thus, pending further legislation, the supervision of char-à-banc traffic in those areas is not yet fully provided for.

The Act contains a saving for local Acts in force in towns, and also excludes from its operation the two county borough councils in Northern Ireland, because they possess under local Acts adequate powers for regulating char-à-bancs. In the case of Londonderry county borough, it may be noted that the Town Police Clauses Acts are in fact incorporated with the local Acts.

Dangerous Drugs and Poisons.—C. 4 was passed in order to increase the powers of the Executive in dealing with the illicit drug traffic. Its provisions follow those contained in the Dangerous Drugs and Poisons

(Amendment) Act, 1923,[1] passed by the Imperial Parliament. The latter Act, in accordance with constitutional limitations, was made applicable to Northern Ireland only so far as it amended the law in relation to matters which were outside the legislative powers of the Parliament of Northern Ireland. So far as the subject-matter of the Imperial Act might be within the powers of the Northern Ireland Parliament, it was necessary for that Parliament itself to make similar provision in order to enable the illicit drug traffic to be dealt with in Northern Ireland in the same way as in Great Britain. S. 1 increases the powers of search, both as regards premises and documents. S. 2 amplifies the law which enumerates the offences and penalties for offences, and, generally, makes the existing law more stringent. Ss. 4 and 5 amend the Poisons (Ireland) Act, 1870, in a manner similar to that in which the corresponding British provisions are amended by the Act of 1923.

Explosives.—C. 5 applies to Northern Ireland the stringent provisions as to explosives which were enacted for Great Britain by the Explosives Act, 1923.[2]

Time.—C. 24 makes provision for the permanent adoption in Northern Ireland of the time for general purposes adopted for use in Great Britain. The Time (Ireland) Act, 1916, provided that the time for general purposes in Ireland should be the same as the time for general purposes in Great Britain " both during the periods when the Summer Time Act, 1916, is in force and at all other times." The Summer Time Act, 1916, expired on August 31, 1922, and it was replaced by the Summer Time Act, 1922. At the time of the passing of c. 24, it was not known whether the Act of 1922 would be allowed to expire, or whether it would be replaced by a new statute. Accordingly, c. 24 was phrased so as to secure the permanent uniformity of general time in Northern Ireland with that in Great Britain. Subsequently the Act of 1922 (which applied to Northern Ireland) was continued by the Imperial Parliament's Summer Time Act, 1925. It appears, therefore, that the permanent adoption of summer time in Northern Ireland now has the authority both of a local and of an Imperial statute.

Deceased Brother's Widow's Marriage.—C. 22 removes doubts which arose as to the application of the Deceased Brother's Widow's Marriage Act, 1921, in Northern Ireland.

National Health Insurance.—C. 16 makes provision for the payment in part by approved societies, and out of certain funds, of the expenses of arrangements made by the Ministry of Labour for the provision of medical evidence of incapacity for work in the case of persons insured for National Health Insurance. The Act also applies certain unclaimed sums towards the cancellation of arrears in the contributions of members of approved societies. These provisions are of a temporary nature, and are similar to provisions contained in the National Health Insurance (Cost of Medical Benefit) Act, 1924,[3] and applicable to Great Britain. C. 16 also made some permanent amendments of law, which were subsequently taken into account in the consolidation of statutes which was carried out, as respects Great Britain and Northern Ireland, by the National Health Insurance Act, 1924.[4]

Industrial Assurance.—C. 21 extends to Northern Ireland the pro-

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii. pt. ii, p. 3.
[2] *Ibid.*, p. 4. [3] *Supra*, p. 6. [4] *Ibid.*

visions of the Industrial Assurance Act, 1923,[1] which was based upon the report produced in 1920, by a departmental committee presided over by Lord Parmoor, on abuses in the conduct of Industrial Assurance. The Northern Ireland Act is administered by the Registrar of Friendly Societies for Northern Ireland, under the title of Industrial Assurance Commissioner. This Registrar is an officer of the Ministry of Commerce, and in certain respects that Ministry itself exercises functions under the Act, as, for instance, in the framing of general regulations.

Assurance Companies.—C. 20 was passed in order to remove doubts as to the effect of certain provisions of the Assurance Companies Act, 1909, in the conditions resulting from the creation of a separate administration for Northern Ireland. The Act provides that money deposits made by a company in Great Britain shall be available in respect of the carrying on of business by that company in Northern Ireland, but that money deposits made by a company in the Irish Free State shall not be so available. It also provides that copies of documents deposited by a company with the Board of Trade shall be accepted for deposit with the Ministry of Commerce.

Unemployment Insurance.—This subject occupied the attention of the Parliament of Northern Ireland on several occasions during the Session. Four separate measures were passed (cc. 3, 14, 18 and 25), whose underlying policy was to maintain unemployment benefit at the same standard as existed in Great Britain. Of these measures, the most important is the Unemployment Insurance (No. 2) Act (Northern Ireland), 1924 (c. 25), which—following the Act 14 & 15 Geo. V, c. 30, passed for Great Britain—made considerable amendments in favour of insured persons, as regards rights to benefit, rates of benefit, and conditions and disqualifications for its receipt. The Northern Ireland statute was not passed until three months after the Act for Great Britain became law, but Parliament made provision for the temporary allowance of benefit at the increased rates by means of c. 14, which empowered the Governor in Council to put in force, for a limited period, the enactments applicable to Great Britain. C. 3 was passed early in the session for extending the period during which "uncovenanted" benefit might be allowed, and c. 18 provided for an extension of the limit upon advances made from the Exchequer to the unemployment fund.

Housing.—C. 28 contains an amendment of the Housing Act (Northern Ireland), 1923[2]—the Act which authorized the giving of a Government subsidy to persons and local authorities constructing houses, and which enabled the subsidy to be, in the case of private persons, supplemented by grants from local authorities out of rates. The Act of 1923 restricted both the subsidy and the grant from rates to houses commenced on or after October 24, 1922, and completed before April 1, 1925. C. 28 substitutes April 1, 1926, for the latter date as regards the subsidy. It also gives to the local authority a discretion as to whether or not they will award the grant from rates in the case of houses completed within the extended period, and enables them to make some further conditions independently of the conditions for the subsidy.

Rateable Valuation.—C. 29 was based upon the interim report of a departmental committee appointed by the Minister of Finance to inquire into the method of the valuation of property for the purposes of taxation

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. ii, p. 14.
[2] *Ibid.*, p. 20.

and rating. The committee satisfied themselves of the existence of anomalies due to the use of varying standards of letting value for the purpose of arriving at the rateable valuation, and came to the conclusion that the adoption of a standard based upon the letting value of property, estimated as at a specific date, was the method which would equalize the burden to all. Accordingly, they recommended, as a temporary expedient, that the 1914 standard of value, plus an increase of 15 per cent., should be accepted as the basis for arriving at the net annual value, subject to certain exceptions, and the Act was passed in order to make provision to this effect.

Constitutional and Administrative Matters.—The Private Bill Procedure Act (Northern Ireland), 1924 (c. 9), makes specific provision for applying to Private Bill procedure in the Parliament of Northern Ireland a series of enactments governing the procedure at Westminster, such as those which deal with the deposit of documents, the making of money deposits by promoters, and the taxation of parliamentary costs. Some of these enactments might, apart from c. 9, have been held to apply to procedure in the Parliament of Northern Ireland by virtue of the Government of Ireland Act, 1920; but they would, in that case, have had to be read with extensive modifications. Other enactments of this group could not, with certainty, be regarded as applicable to procedure in the Northern Ireland Parliament, although the necessity for applying them was clear.

The Ministers (Temporary Exercise of Powers) Act (Northern Ireland) (c. 11) empowers the Governor to make provision for the performance of the functions of a Cabinet Minister during temporary incapacity, by designating a Parliamentary Secretary, or some other Minister, to act on his behalf.

The Commissions of the Peace Act (Northern Ireland) (c. 8) had for its object the simplification of the former procedure for making appointments to the magisterial bench, according to which, whenever new appointments were made, a fresh Commission was issued under the Great Seal reciting the names of all persons included in the Commission. The new procedure follows the English procedure as laid down in rules made under the Crown Office Act, 1877, and a single Commission is now issued for each county, with a schedule in which the names of justices are from time to time inserted or deleted.

C. 17 gave to the Ministry of Home Affairs power, for a limited period, to take land and buildings compulsorily for barracks and other purposes of the Royal Ulster Constabulary force. The Act contains provision for the award of compensation by an official arbitrator (appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919) to parties whose property is taken, and for an appeal to the County Court Judge where the amount of compensation is in dispute. The compulsory clauses of the Lands Clauses Acts are put in force by an Order made by the Ministry, provisionally in the first instance, but having full statutory effect on confirmation after a period for the giving of notice and hearing of objections.

Finance.—C. 19 constituted the "budget" measure of the Session, but it imposed no new taxation and was mainly confined to making, in respect of taxation under the jurisdiction of the Parliament of Northern Ireland, amendments of law similar to those contained in the Imperial Act of the same year (c. 21). Thus, c. 19 amends the law relating to

entertainments duty and the duty on licences for mechanically propelled vehicles; declares that the licence duty payable by dealers in cider and perry, and by manufacturers for sale of table waters, ceased when the direct excise duty upon these commodities was repealed by the Imperial Parliament; provides for the exemption from stamp duty of securities issued under a Treaty of Peace with Turkey; and grants relief in respect of death duties payable on the death of persons engaged in service of a dangerous character. The Act also renders game and gun licences taken out in Great Britain available in Northern Ireland, thus completing the reciprocity contemplated by s. 17 of the Imperial Act of the same year.

C. 2 makes an addition to the series of enactments which extend the authority given to the Ministry of Finance by an Act of 1922 [1] to guarantee the repayment of loans intended to be applied for the carrying out of capital undertakings calculated to promote employment. It increases the maximum limit on the capital amount of the loans whose repayment may be so guaranteed from £3,500,000 to £5,000,000, and extends, up to the close of the financial year, the time within which the power to give guarantees may be exercised.

C. 13 is not of general interest except in so far as it established a special capital fund for the reception of a sum granted on the recommendation of the Northern Ireland Special Arbitration Committee (generally known as the "Colwyn Committee") in respect of certain particular claims which had been made by the Government of Northern Ireland for financial adjustment, and are described in paragraph 9 of the First Report of that Committee.[2]

Local Legislation.—The system under which provisional orders are made by Government departments and confirmed by legislation has been continued in the Parliament of Northern Ireland. Two Acts of this character (cc. i and ii) were passed during the session to confirm orders made by the Ministry of Home Affairs.

Cc. iii, iv and v are local Acts which authorize important undertakings, as respects Belfast and Londonderry.

5. SAORSTÁT EIREANN (IRISH FREE STATE).

1922–1924.

[*Contributed by the* Hon. Mr. Justice Hanna, *Judge of High Court.*]

The legislative infancy of a new State is of profound interest to the constitutional lawyer and the legal historian. That of the Irish Free State is no exception. Like a child, it has been not only destructive, but refreshingly constructive and original. With courage it has faced problems that would have troubled the most experienced Legislature, and some of its experiments will remain for others as guides, or warnings, as the case may be.

The period under review, from the foundation of the Saorstát until the end of 1924, brings under our consideration 117 Acts, 5 in 1922, 50 in 1923 and 62 in 1924.

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 19.
[2] 1924, Cmd. 2072.

It is somewhat difficult, without being wearisome, to give a comprehensive survey of these years, which include the period of settlement after the Treaty, and that in which armed rebellion was waged by the Republican forces against the Saorstát, periods requiring unusual legislation. We shall try, however, to present the main activities of the Government in law-making, by submitting them, not chronologically, but in groups.

It is proposed to group the legislation under the following heads: (1) Constitutional Laws; (2) Finance Laws; (3) Temporary, Transitional, and Emergency Laws; (4) Public Safety Laws; (5) Army and Defence Forces Laws; (6) Damage to Property Laws; (7) Dail Eireann Courts; (8) Local Government; (9) Courts, Administration of Justice and Criminal Laws; (10) Land Laws; (11) Laws on Ordinary Domestic and Civil Matters.

It is necessary to give a short summary of the new legislative procedure and indicate the new nomenclature.

The Oireachtas (pronounced " urrigktas ") is the national Legislature (Art. 12, Constitution). It consists of the King and two Houses, (1) a Chamber of Deputies called Dail Eireann (pronounced " dawil eerin "), and (2) a Senate, called Seanad Eireann (pronounced " shānad eerin "). In ordinary course, subject to certain special exceptions, a Bill passes both chambers, is submitted to the King's representative (the Governor-General) for assent, and on receiving same, becomes law. Two versions of each law are issued, one in Irish and one in English (Art. 42, Constitution). The laws are passed in English, and in the course of publication, which is in the form familiar in England and the Dominions, there is printed, on the left-hand page of the pamphlet which contains the Act, the Irish version, prepared officially in pursuance of the Constitution and the standing orders of the Oireachtas. Throughout the Acts the Irish Free State is described by its national name of Saorstát Eireann (pronounced " sharestat eerin "). Each yearly volume is entitled " Na hAchtanna Puibli Generalta a rith Oireachtas Saorstát Eireann sa bhliain," meaning, " The Public General Statutes passed in the year." The enumeration of the Acts is by ordinary numbers and year, preceded by the short title of the Act, *e.g.* Indemnity Act, No. 31 (1923).

The Executive Council, mentioned in the Acts, is formed under Art. 51 of the Constitution, and is the body aiding and advising in the Government of the State. It is responsible to Dail Eireann and consists of not more than seven nor less than five Ministers appointed by the Governor-General on the nomination of the President.

Constitutional.—The legislative birth of the State was on December 6, 1922. The first Act passed was the Constitution of the Irish Free State (Saorstát Eireann), No. 1 (1922). It decrees that the Constitution set forth in the First Schedule shall be the Constitution of Saorstát Eireann, and by s. 2 it enacts that the Constitution is to be construed in reference to the Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Second Schedule; and the terms of the Treaty are thereby given the force of law. The same section contains a provision that if any provision of the Constitution is repugnant to the Treaty it shall, to the extent of such repugnancy, be absolutely void and inoperative. It is not necessary in this article to discuss the legal effect of any of the terms of the Constitution. Several of the articles have been the subject of judicial discussion or legal argument in the

Courts of Saorstát Eireann.[1] The full terms of the Treaty are als to be found in the English statute, Irish Free State (Agreement) Act, 1922 (12 Geo. V, c. 14), passed on March 3, 1922; and the full terms of the Constitution in the English statute, Irish Free State Constitution Act (sess. 2), (13 Geo. V, c. 1) passed on December 5, 1922. From these two Acts the Treaty and Constitution received from the British Legislature the full force of law.

The next most important constitutional act is the Adaptation of Enactments Act, No. 2 (1922) passed on December 22, 1922. This Act was the necessary consequence of Art. 73 of the Constitution which provided that laws hitherto in force in Saorstát Eireann should continue to be of full force and effect, in so far as not inconsistent with the Constitution, until they have been repealed or amended by the Oireachtas. In other words, subject to the Constitution, the British laws were to continue, and to be interpreted and adapted in relation to the circumstances of Saorstát Eireann, including in the adaptation certain orders, regulations and contracts. By s. 2 the " Central Fund " of the Saorstát is to take the place of the " Consolidated Fund." By s. 3, for the purpose of the construction of any British statute, the name " Ireland," whether used alone or in conjunction with the expression " Great Britain " or by implication as being included in the expression " United Kingdom," is to mean " Saorstát Eireann." " Oireachtas " is substituted for " Parliament " (s. 5); the powers of the justices of the peace and resident magistrates are transferred to the " district justices " (s. 6). By s. 7, the Executive Council is empowered to establish Boards of Commissioners to discharge the powers of any statutory boards or bodies, and by (s. 10) powers previously exercised by Order in Council are to be exercised by an order of the Governor-General of Saorstát Eireann on the advice of the Executive Council. All references in British statutes to ministers, official departments, or authority of government of the late United Kingdom are in future to refer to the corresponding ministers, etc., in Saorstát Eireann who exercise similar functions. Under s. 15 all Government contracts of the British Government or the Provisional Government of Ireland are to be construed as if made with the Government of the Saorstát. There are other provisions for adaptation of statutory rules and orders, local and personal acts, and trustee investments.

On the same date as the previous Act, December 20, 1922, the first Appropriation Act was passed (see Finance), Appropriation Act No. 3 (1922) empowering the Minister of Finance to issue out of the Central Fund the sum of £38,051,086 for national purposes.

Oireachtas (Payment of Members) Act No. 18 (1923), enacted in pursuance of Art. 32 of the Constitution, provides an allowance of £30 per month to each member of the Oireachtas and free travelling facilities between Dublin and their respective constituencies. This was amended

[1] *Cahill* v. *Att.-Genl. of Free State*, [1925] 1 I.R. 70; *Wigg* v. *Att.-Genl. of Free State*, [1925] 1 I.R. 149; *Leyden* v. *Att.-Genl. of Free State*, 59 I.L.T.R. 19; *R.* (*Armstrong*) v. *County Court Judge of Wicklow*, [1924] 2 I.R. 139; *R.* (*Alexander* v. *Circuit Judge of Cork*, [1925] 2 I.R. 165, 175. *Great S.-W. Ry.* (*Ir.*) v. *Att.-Genl.*, [1925] A.C. 754; *R.* (*O'Brien*) v. *Minister of Defence*, [1924] 2 I.R. 32; *Gieves* v. *O'Connor*, [1924] 2 I.R. 182; *R.* (*O'Connell*) v. *Military Governor of Hare Park*, [1924] 2 I.R. 104; *I.F.S.* (*Eustace*) v. *Flood*, [1924] 2 I.R. 69; *R.* (*Murphy*) v. *Mil. Govr. Mountjoy Prison*, 58 I.L.T.R. 1; *R.* (*Burke*) v. *Mil. Govr. Mountjoy Prison*, 58 I.L.T.R. 106.

by Oireachtas (Payment of Members) (Amendment) Act, No. 29 (1925), which made the allowances free from income-tax and excluded it from computation as income for income-tax purposes.

League of Nations (Guarantee) Act, No. 41 (1923), empowered the Executive Council to give such guarantee to the League of Nations as should be thought proper in respect of the observance of international obligations, and to accept the regulations prescribed by the League subject to ratification by the Oireachtas.

Another very important constitutional Act is the Ministers and Secretaries Act, No. 16 (1924). It impliedly did away with all unwritten conventions as to State departments and by statute expressly created eleven of these, viz., President, Finance, Justice, Local Government and Public Health, Education, Lands and Agriculture, Industry and Commerce, Fisheries, Posts and Telegraphs, Defence, and External Affairs. The Minister of each of these is created a corporation sole, with power to sue, and subject to the fiat of the Attorney-General, with liability to be sued in his style and name. By s. 4 the salary of the President was fixed at £2,500, that of each minister at £1,700, and (s. 5) that of the seven parliamentary secretaries at £1,200 each. S. 16 directs that official and judicial notice shall be taken of the Executive Council and the official gazette (*Iris Oifighuil*) shall be *prima facie* evidence of its contents.

Arising out of the Irish Boundary question and the refusal of the Government of Northern Ireland to name a commissioner to the Boundary Commission under Art. 12 of the Treaty, it became necessary for the British Government and that of Saorstát Eireann to enter into a supplemental agreement to the effect that any commissioner appointed by the British Government should be deemed to be a commissioner appointed by the Government of Northern Ireland. This was confirmed by the Oireachtas on October 25, 1924, by the Treaty (Confirmation of Supplemental Agreement) Act, No. 51 (1924).

The first Act amending the Constitution of the Saorstát is not within the period under review, but one may merely mention it. The Constitution (Amendment No. 1) Act, No. 30 (1925) was to alter the duration of the term of office of a senator and to provide for filling casual vacancies.

Finance.—As to Money Bills, exclusive legislative authority is given to Dail Eireann by Art. 35 of the Constitution. Money Bills are such as are certified by the Chairman of Dail Eireann to be such, subject to appeal to a committee of privileges. The Senate has under Art. 38 the right (*within twenty-one days*) to make recommendations which may be accepted or rejected by the Dail.

The Appropriation Acts for the years 1922, 1923, and 1924 are respectively, No. 3 (1922), No. 33 (1923), and No. 34 (1924). The sums appropriated were: 1922, £38,051,086; 1923, £31,312,811; 1924, £20,964,541.

The Comptroller and Auditor-General for the Saorstát is an office created by No. 1 (1923). He is appointed by the Dail, has a salary of £1,500 per annum with suitable provision for pension, and his duties are those under the adopted statutes of the Parliament of the late United Kingdom, and particularly under the Exchequer and Audit Departments Acts, 1866 and 1921.

The Central Fund Acts of 1923 and 1924, No. 7 (1923) and No. 8 (1924), provide for the issue to the Minister of Finance of the funds

necessary to make good the supply granted for the respective periods dealt with. They also give the Minister power to borrow.

By the Double Taxation Relief Act, No. 8 (1923), the Executive Council was empowered to make arrangements with the Government of Great Britain for granting relief from double taxation wherever there is a charge in respect of the same subject-matter both to the Saorstát tax and to a corresponding British tax. Any such provisional arrangement is to be confirmed by order of the Governor-General.

The Finance Act, No. 21 (1923), fixed the income-tax at 5*s.* in the £, exempted interest on Savings Certificates from tax, but from October 1, 1923, income-tax was to be charged on British Government Stock issued free of tax but subject to relief under the Double Taxation Act, No. 8 (1923). To ensure the recovery of income-tax, drastic powers were given, by s. 6, empowering the Commissioners to require employers to deduct the tax of defaulting employees from pay or salary, and if the employer refuse he himself becomes liable to be assessed for same. S. 7 contains elaborate provisions enabling the under-sheriff, on a certificate from the collector, to seize any stock, goods or chattels of the tax-payer, and if it is a tax payable out of lands, to seize all cattle, etc., on the said lands, and after impounding same for twenty-four hours to sell by public auction. The buyer is given a good title valid against all persons, and the under-sheriff is indemnified against any action at law in respect of his acts in entering the lands or premises to seize, or on account of his having seized or sold the goods, etc. The Act also contains provisions for exemption of the income of certain charities from tax, for payment of tax on foreign investments and on public offices.

S. 12 of this Act is rather interesting as showing the constitutional point of view of the Saorstát towards the Dominions. It enacts in s. 1 that s. 27 of the Finance Act of 1920 and s. 28 of the Finance Act of 1921 (which relate to relief in the United Kingdom from Dominion Income-tax) shall be construed and take effect as if (*a*) the words "Saorstát Eireann" were substituted for the words "United Kingdom" wherever those words occur, and (*b*) the words "Great Britain and Northern Ireland" were substituted for the word "Dominion" wherever that word occurs in either of the said sections. This enactment means in substance that the Saorstát only extends to Great Britain and Northern Ireland the relief granted by Great Britain to all the Dominions. No relief is granted in the Saorstát in respect of tax paid in a Dominion, and by the effect of s. 3 of the same section the Dominions are placed in the position of "foreign States," being a term defined as including all places outside the Saorstát.

In the succeeding year 1924 the Finance Act, No. 27 (1924), deals mainly with new or increased duties the details of which are not of general legal interest; but Part III, dealing with death duties, by s. 32 includes within or adds to s. 2 of the Finance Act, 1894, any personal property or moveable property situate outside the Saorstát taken as a *donatio mortis causa* made by any person dying domiciled in the Saorstát or taken under a deposition made by any person dying domiciled in the Saorstát and purporting to operate as an immediate gift *inter vivos* not *bona fide* made at least three years before death of the deceased, or under a gift whenever made if *bona fide* possession and enjoyment have not been assumed immediately by the donee and retained to the exclusion of the donor.

The only other section that we need note in this long Act is s. 35 (Part IV), whereby relief is given from double corporation profits tax to companies incorporated under the laws of the Saorstát, if such have already paid corporation profits tax in Great Britain or Northern Ireland.

The Old Age Pensions Act, No. 19 (1924), reduced the old age pensions by 1s. a week. The rate of payment according to yearly means of the pensioner is set out fully in the schedule to the Act.

The last and not the least important of the Acts under the head of Finance is the Dail Eireann Loans and Funds Act, No. 3 (1924), whereby the Government of Saorstát Eireann redeemed, to those who gave financial support in the earliest days of the struggle against the British, the promises then made by the leaders of the Sinn Fein movement, as it then was. In the years 1919, 1920 and 1921 when the First and Second Dail Eireann were meeting in secret at various places, and sometimes openly, three loans were issued: the "Internal Loan," which ran from 1919 until July 17, 1920; the "External Loan" floated on January 21, 1920, by public subscription in the United States; and the second "External Loan" floated on November 15, 1921, under the authority of the Second Dail Eireann in the United States of America. By this Act the Government of Saorstát Eireann has taken over whatever remains of the moneys and property of the Funds, transferring them from the Trustees of the funds to the Minister of Finance and the subscribers to the Internal Loan are to receive Savings Certificates in the Post Office to the value of 28s. for every £1 subscribed, and to every subscriber to the external loans there shall be issued a stock certificate for the amount subscribed, redeemable by the Minister of Finance, at 5 per cent. interest from date of loan, this stock to be charged on the Central Fund.

Temporary, Transitional and Emergency Laws.—In the consideration of this branch of the legislation, one must remember the two periods of warfare and difficulty out of which the Saorstát has emerged. The contest with the British commenced, technically, on January 21, 1919, when the first Dail Eireann met and issued the manifesto declaring independence, and ended with the truce on July 11, 1921, succeeded by the Treaty on December 6, 1921, and later by the transfer of powers and duties from the British Departments and officials to those of the Provisional Government by the Transfer Order in Council of April 1, 1922, and culminating in the foundation of the constitution on December 6, 1922. The second period dates from the armed rebellion against the established Saorstát by the Republicans, commenced in the spring of 1923, as a consequence of the ratification of the Treaty by the Dail, and continued with varying intensity until the end of the summer of that year. The question, as to when the state of armed rebellion ended, fell to be decided on *habeas corpus* proceedings in the case of *R.* (*O'Brien*) v. *Minister of Defence*, reported [1924] 1 I.R. 32, when it was held by the Court of Appeal that at that date (August 1, 1923) the state of armed rebellion was at an end.

Arising out of the first period, a comprehensive indemnity statute, the Indemnity (British Military) Act, No. 2 (1923), was passed, covering acts as far back as the Easter Rebellion of 1916. It enacted (s. 1) that no action or other legal proceeding, civil or criminal, should be instituted in any Court of Saorstát Eireann against any person in respect of any act done after April 23, 1916, and before February 10, 1923 (the date

of the passing of the Act) by any person who, when the act was done, was employed by the British Government in any capacity. Pending proceedings were to be discharged (s. 2), but existing judgments were not to be affected (s. 5). By the proviso of s. 1 proceedings under the Indemnity Act, 1920 (of the British Parliament), and claims for compensation for malicious injuries to person or property were excepted. The Indemnity Act, 1920, is that restricting the taking of legal proceedings against any person for acts done in good faith during the European War, but enabling claims for compensation, in respect of certain acts, to be prosecuted before the War Compensation Court.

After the suppression of the armed rebellion against the Saorstát, there was passed, on August 3, 1923, the Indemnity Act, No. 31 (1923), to restrain the taking of any legal proceedings in respect of acts done *bona fide* during the suppression of the " state of armed rebellion created by the attempt to overthrow by force the lawfully established Government of Saorstát Eireann." By s. 3 this Act also validated all sentences, imposed by military tribunals, established in the course of these military activities, and made provision for the review of certain sentences.

There were still left unprotected by indemnity the persons and forces who from the declaration of independence on January 21, 1919, acted against the British under the orders of the First Dail Eireann and the Second Dail Eireann until June 28, 1922. This protection was given by the Indemnity Act, No. 40 (1924), entitled, " An Act to restrict the taking of legal proceedings, in respect of certain acts and things done during the establishment of the First Dail Eireann and the Second Dail Eireann respectively, as the lawful government of Saorstát Eireann, or done during the period immediately succeeding the conclusion of that struggle, and to make provision for the payment of compensation to certain classes of persons in relation to such acts and things as aforesaid, and to validate sentences and the execution of sentences imposed by military tribunals acting under the authority of the First Dail Eireann or the Second Dail Eireann." This gives a fair summary of the Act, which in its indemnifying clauses was in form on the same lines as the others.

Incidentally, it may be pointed out that this Act protects all " commandeering " by the forces acting under the Dails in the course of the struggle. Exceptions were made from the restriction to take proceedings, in the case of proceedings by the Government, or a Minister of a Department, or for breaches of contract or damage to person or property by negligence. S. 4 created a Compensation Committee to which claims could be referred by the Minister of Finance, to whom the Committee reported their decision or award.

In the course of the struggle, already referred to, against the British one of the efforts relied upon by the Sinn Fein organization from 1920 was that of passive resistance to the Local Government Board and its orders. Under the directions of the First Dail the local authorities, in many instances, refused to comply with the orders of the Local Government Board, and dealt with such funds as they might have control of, in accordance with the directions of the Minister of Local Government of the First Dail, and paid them over to agents of their own instead of to the statutory treasurer appointed by the British Local Government Board. Such acts were under the ordinary law, as it then stood, *ultra*

vires and illegal, and in respect of them the local authorities were liable to surcharge.

It therefore became necessary to pass an indemnity, and the Local Authorities (Indemnity) Act, No. 28 (1923), by s. 2 enacted that if it appeared to the Minister for Local Government that the doing or omitting of any Act or thing by a local authority during the period between March 31, 1920, and December 6, 1922, was, or might be, illegal or invalid, the Minister was entitled to approve of such Act, and (s. 2(2)) if he so approved of it, the act or omission was deemed to be and to have been always legal and valid notwithstanding any law to the contrary.

S. 3 provided protection for cases where the funds of a local Authority were not paid to the appointed treasurer under the Local Government Act, but to some person as trustee or agent or acting-treasurer for the local authority. All such transfers were validated.

In further pursuance of the policy of recognizing those who had assisted the Government, in the early days, and of rehabilitating those who had lost office under the British on account of their views, and to compensate those who had suffered personal injuries in the cause, the Superannuation and Pensions Act, No. 34 (1923), was passed. By s. 1 a person transferred from a public department of the Dail Eireann of 1919 was, on obtaining a certificate from the Minister of Finance, to be deemed to have been on the permanent civil service of the Saorstát, from the date of his appointment to serve under the Dail, and appropriate provisions were made for their superannuation rights, analogous to those of ordinary civil servants. By s. 2 the Minister of Finance was empowered, within six months, to reinstate in the Civil Service of Saorstát Eireann persons dismissed therefrom, by the British Government, for political reasons prior to July 11, 1921. S. 3 empowered the same Minister to exercise, withing three months, similar powers with reference to members of the Dublin Metropolitan Police, who resigned or were dismissed for political reasons prior to July 11, 1921, and on such reinstatement such persons were deemed to have been serving on September 1, 1918.

During the armed rebellion the Minister of Home Affairs had established, for the maintenance of order and the protection of person and property, special armed organizations, under the designations of Criminal Investigation Department, Citizens' Defence Corps, and the Protective Force. S. 4 empowered the Minister of Finance, on the certificate of the Minister of Home Affairs, to grant to members of any of these forces, who had been wounded or disabled, a wound pension or gratuity as if such person came under the Army Pensions Act, No. 26 (1923), and under s. 2, if such person had been killed while, or, in consequence of, performing his duty, to grant such allowance or pension as could have been granted under the Army Pensions Act, 1923. S. 5 further empowered the Minister of Finance to grant pensions to members of the Royal Irish Constabulary who resigned or were dismissed by the British Government on account of their national sympathies.

Public Safety Laws.—We now come to another interesting phase of the emergency legislation. During the period in which the Saorstát forces were engaged in suppressing the armed rebellion steps were taken by the military for the internment of their opponents without any specific offence having been charged against them. This was done, of course, in pursuance of orders issued by the military acting on their

inherent power, representing the Executive, and as being necessary for public safety. When the active hostilities had come to an end the legality of further internment was tested in the case of Mrs. Connolly O'Brien, reported as *R.* (*O'Brien*) v. *Minister of Defence* [1924] 1 I.R. 32, a case previously referred to. The Court of Appeal having held that the state of war had come to an end, ordered the release of the prisoner, by writ of *habeas corpus* directed to the Governor of the Internment Camp and the Minister of Defence. This happened on July 31, 1923, and was tantamount to a declaration that all the interned prisoners were thereafter illegally detained.

On the following day, August 1, to enable the Executive to continue the internment of such dangerous persons, the Public Safety (Occasional Powers) Act, No. 28 (1923), was passed. It passed both Houses and received the King's assent on the same day. It is described as " an Act for the preservation of public safety and for the protection of person and property and other matters connected therewith arising out of the present emergency." By s. 1 the Executive Minister was empowered to arrest and detain in custody, in any place within the Saorstát, any person in respect of whom the Minister would certify that he was satisfied that there was reasonable ground for suspecting such person as being or having been connected or concerned in the commission of certain offences against the public safety of the State set out in the schedule to the Act, or in respect of whom the Minister received a report from the military authorities that the detention of such person was a matter of military necessity. S. 3 validated the continued detention of any persons, already detained in military custody, or held as a military prisoner or captive, and it confirmed sentences being served and unexpired, which had been imposed by the military authorities. Under s. 4 appeal councils were established to inquire into the cases of interned prisoners who claimed to be released. S. 5 imposed the sentence of death for certain offences against the public safety set out in the schedule. In cases of robbery under arms the Court was empowered to inflict flogging (s. 5(4)).

During the period of unsettlement there had been throughout the grazing portions of the country illegal seizure of lands on an extensive scale. To cope with this, the Executive Minister was empowered to seize and sell all animals found on the said lands whether the lands were the property of a Government Department or of a private individual.

The possession of firearms was at all times a danger to the State, and s. 8 made special provisions for sale and possession thereof.

Raids by armed and masked men had for some time been rife, and to deal with the unlawful fruits of such acts, whether by individuals or on behalf of organized bodies, s. 9 made provision for the recovery of property representing, or the proceeds of stolen property or funds, and for the recovery from banks of money standing to the credit of any persons, and representing the proceeds of stolen property or funds.

S. 12 empowered the Attorney-General to change the venue of trial of any criminal case by a certificate under his hand that a more fair and impartial trial could be had in a named venue than in the venue within which the crime was committed, and thereupon the trial venue became changed to that so certified.

Before pursuing this public safety legislation further it is necessary to return to the O'Brien case by virtue of which the interned prisoners

were entitled to release, and in consequence of which the principal provisions of the preceding act were passed. On the issue of the writ of *habeas corpus* the State claimed the right to make a return thereto, which they did on August 2, the day after the above-mentioned Public Safety Act was passed. The State, in the return, relied for cause on the provisions of s. 1. (*d*) of the said Act, namely, that on that date the Executive Minister had made an order thereunder that the public safety would be endangered by the release of Mrs. O'Brien.

This raised a very important constitutional question, which resulted in the next Act to be referred to. It was submitted for the interned, on the hearing of the return, that it should be quashed on the ground that the Public Safety Act, passed into law in one day, was in contravention of Art. 47 of the Constitution. This article enacts in substance that a period of seven days should have elapsed before the Bill became law, to enable the Dail or the Seanad to exercise the powers under the article, for demanding a referendum on the particular statute. Art. 47 provides that within a period of seven days from the passing of any Bill two-fifths of the Dail or a majority of the Seanad may present a demand to the President of the Executive Council for the suspension of the Bill for ninety days, during which a referendum of the Bill may be demanded by a resolution of the Seanad assented to by three-fifths of its members or by a petition of one-twentieth of the voters on the register, and the decision of the majority shall be conclusive. This provision was not to apply to money Bills or " such other Bills as may be *declared by both Houses* to be necessary for the immediate preservation of the public health or safety." The Court of Appeal held that the return was bad, as there had been no declaration under Art. 47 by both Houses that the Bill was necessary for the immediate preservation of public safety, such declaration being a necessary condition precedent to the dispensation with the seven days' interval.

Thereupon, on the next day, August 3, 1923, both Houses passed the Public Safety (Emergency Powers) Act, No. 2, Act No. 29 (1923). It contained in s. 2 the declaration necessary under Art. 47, and in s. 1 declared that the abortive Act No. 28 (1923), which it re-enacted should immediately become operative and have the full force of law on the signification of the King's consent thereto, the Act to remain in force for six months.

A further interesting provision of a constitutional character was contained in this Act. By s. 4 there were established appeal councils to determine the right of the Government to detain any person who made an appeal and the ordinary Courts were open and available. Though the general intendment of the portion of the Act above referred to was to enable the Executive and the military to retain control of the interned prisoners, it was open to argument that the establishment of these statutory appeal councils, as tribunals, derogated from the rights of the military to avail themselves of the usual machinery adopted in time of war or armed rebellion. Such an argument would have received strong support from the decision of the Master of the Rolls under the British regime in the case of *Egan* v. *Macready*, [1921] 1 I.R. 265, where it was held that the executive powers of the military during a state of war may be limited by express enactment, such as the Restoration of Order (Ireland) Act, 1920, and in particular, that where Parliament has established, during a state of war, tribunals to deal with matters

generally within the control of the military during a state of war the military authorities were to that extent shorn of their usual powers as representing the Executive. To prevent such a point being raised against the army of the Saorstát, a section, of some interest to constitutional lawyers, was introduced (s. 15) which, in very compendious terms, preserved all the powers of the military forces and provided that nothing in the Act should be deemed to revoke, annul, derogate from, or prejudice the exercise by the military forces of Saorstát Eireann of any of the powers or authorities exercisable by them, by virtue of military necessity arising in the course of the performance of their duty to suppress rebellion, or vested in them by virtue of their having been entrusted by the Executive Government with the duty of securing the public safety and restoring order throughout the country." This Act was to remain in force for six months.

On the expiry of this temporary Public Safety Act several of the topics covered by it were re-enacted in separate statutes, as will appear.

The provisions as to internees were in substance re-enacted by the Public Safety (Arrest and Detention) Act, No. 1 (1924) which became law on January 31, 1924. S. 6 of this Act gives a new power to the Executive Minister, namely, to make it a condition of release of any internee, that he or she should enter into a recognizance, with two solvent sureties, to keep the peace for a period not exceeding three years. This Act continued in operation for one year.

The section of the Public Safety Act, No. 29 (1923), dealing with measure of punishment for scheduled offences against public safety, flogging for armed robbery, the powers of the Minister to seize and sell trespassing cattle on Government or private lands, the power to follow stolen property or money or the proceeds thereof, and the power in the Attorney-General to change the venue in criminal cases for a more impartial trial, were all, in terms, re-enacted for one year by the Public Safety (Punishment of Offences) Act, No. 15 (1924), and need not be repeated in detail.

As to the possession, sale and licensing of firearms, the provisions of s. 8 of the Public Safety Act, No. 29 (1923), were, with some slight alterations in detail, re-enacted for one year by the Firearms (Temporary Provisions) Act, No. 9 (1924). In the main, it contained wide delegated power to the Minister of Home Affairs to make regulations as to licensing, carrying arms, sale of firearms, inspection of licences, and punishment for breaches of such regulations.

With the gradual restoration of order out of chaos, mainly due to the military forces of the Saorstát, there arose the necessity for a force of civil police to cope with ordinary crime, to maintain order and discharge ordinary police duty, which in the time of British government had been discharged in Ireland by the Royal Irish Constabulary. This latter force had never been transferred, nor had the control of it at any time passed from the British Government to the Provisional Government or to the Saorstát Government. In this it was different from the Dublin Metropolitan Police Force, which operated independently in the city of Dublin and suburbs. During the periods of struggle referred to the Sinn Fein party had established a police force of their own, called in the earliest stages Republican Police, but later, Civic Guards. In 1923 a new force called Gárda Siochána was established by the Gárda Siochána (Temporary Provisions) Act,

No. 37 (1923), to continue in force until other provisions were made for the establishment and regulation of a force for the Saorstát on a permanent basis. The Act was not to remain in force for more than one year (s. 1). The power to raise the force was given by s. 2, and it was to be under a Commissioner, appointed by the Executive Council. The Act contained general clauses, of the usual kind, as to appointment of officers, pay, pensions and discipline. By s. 22 it incorporated the existing police force known as the "Civic Guard," and they were deemed to have been established under this Act. By s. 21 all statutory references to the Royal Irish Constabulary (save as to pay, pensions, distribution or liability for cost) were adapted to the Gárda Siochána.

On the side of the civil law it had been found during 1921, 1922 and the beginning of 1923 that it was impossible to enforce in some parts of the country legal remedies for debt or the judgments of the High Court. To prevent the obstruction of legal remedies and provide for better enforcement of the law, the Enforcement of Law (Occasional Powers) Act, No. 4 (1923), was passed. By s. 1, provision was made for the appointment in each county of the under-sheriff who had been, throughout Ireland, the main executive officer of the Civil Courts. He was, by s. 2, authorized to employ bailiffs to assist him in the execution of his duties. S. 3 regulated the seizure of goods, making an inventory, exemptions, sale thereof, and protected the under-sheriff by enacting that no action would lie against him for breaking or entering premises for the purpose of his duties, if it was reasonably necessary, nor for an excessive seizure or sale, if made *bona fide.*

By s. 10 further facilities to legal procedure were given in reference to the service of county court processes (civil bills) and jurors' summonses enabling the County Court Judge to deem documents validly served under certain circumstances, on showing difficulty of service or evasion thereof. By an Act of the succeeding year entitled Enforcement of Law (Occasional Powers) Act, No. 28 (1924), the preceding provisions were substantially re-enacted.

Army.—From 1916 three main armed forces had taken part in the establishment of the Saorstát. They were the Irish Volunteers, the Irish Citizen Army, 1916, and the Army, the latter term prior to the Treaty being, in popular use, equivalent to the I.R.A. (Irish Republican Army). All these forces, as co-operating, were called collectively "Oglaigh ns hEireann" (Soldiers of Ireland). The only legal sanction for the maintenance of these forces was the state of war and armed rebellion so often referred to. With the approach of normal conditions, the accomplishment of the submission of the forces to the civil power was imperative; and powers to establish, maintain, organize, discipline and control them had to be obtained. But in the first instance provision had to be made for the support of the wounded and the dependents of those who had been killed.

The Army Pensions Act, No. 26 (1923), effected the provisions for wounded and dependents. A carefully prepared schedule of the pensions to be allowed for various disabilities was confirmed by s. 1, as the amounts to be payable to wounded officers and men discharged as medically unfit from wounds received after April 1, 1922 (the period of armed rebellion); while s. 3 gave similar rights, subject to a certificate from the Minister, to members of the Irish Volunteers, or Irish Citizen

Army, 1916, in respect of wounds received prior to April 1, 1922, while performing duty as such member. S. 5 empowered the Minister to consent to supply to a wounded officer or soldier such medical appliances as might be required, and also to provide for him functional training. The second and third schedules to the Act fixed the allowances to be granted to dependents of deceased officers and soldiers of the said forces, with a special proviso that any member of the Irish Volunteers, or the Irish Citizen Army, 1916, killed during the rising of 1916 between April and May 1916 shall be deemed to rank as officers. Under s. 10 pensions and allowances could not be assigned or charged. Provision was made by s. 11 for the forfeiture of a wound pension on the conviction of the holder of a crime, for which he is sentenced to imprisonment, with or without hard labour, for more than three months, or penal servitude, and an allowance is forfeited if the imprisonment exceeds one month.

The Government then proceeded, on August 3, 1923, to pass the Defence Forces Act, No. 30 (1923), which, though only temporary for a year, has become, in fact, the "Army Act" of the Saorstát. It purported to make the National Army, as it then was, "The Defence Forces," even though the members of it had not been recruited or attested under the conditions outlined in the Act itself. The Act is divided into four parts.

Part I deals with establishment, organization, administration, appointments and conditions of service, military education, service in time of war and special powers in relation to the defence of the State and the maintenance of barracks.

Part II deals with discipline. It sets out various offences against military law, the nature and degree of punishment that may be awarded, the arrest of offenders and the investigation of charges. It provides for the constitution and jurisdiction of courts-martial, the general principles governing their procedure and confirmation and execution of sentences. It deals with prisons and detention barracks for offenders, the enlistment of recruits, billeting and impressment.

Part III covers the establishment, training, and discipline of the Reserve, and calling them out for permanent service in the case of national emergency or in aid of the civil power.

Part IV contains the transitory provisions and legalizes the National Forces as then in existence. The Act contains 246 sections, eight schedules, and occupies in one language about 130 pages of the statute book. The only section of unusual interest is s. 26, by which officers and non-commissioned ranks must be trained to give commands in both English and Irish. The other sections are on similar lines to those in the British Army Act.

Compensation for Damage to Property and Person.—From January 21, 1919, until March 1923 the destruction of and damage to property, as well as injury to person was so great, running into many millions of pounds, that special legislation was necessary. It is advisable to make a brief statement as to the previous law. The existing code of compensation law for what was called malicious damage was based on, and mainly contained in, the provisions of s. 135 of the Grand Jury (Ir.) Act, 1836 (6 & 7 Wm. IV, c. 116), as amended and amplified by s. 5 of the Local Government Act, 1898 (61 & 62 Vict. c. 37). In substance the law was, that in all cases of malicious or wanton damage to property, the county court judge was entitled to hear an application for compensation there-

for, and to make a decree for such sum as the owner was entitled to receive for such damage, to be paid by, or levied off, the county at large, or any district thereof, as the judge might direct. There had been many decisions on these Acts, and in some respects their interpretation had gone on very technical lines. Compensation could also be given for the murder or maiming of any person, by reason of his having given information, or evidence against persons, charged with offences against the public peace, or for the murder or maiming of any magistrate or peace officer, by reason of his exertions to bring disturbers of the peace to justice.

But, dating from the commencement of the armed conflict in 1919, these acts of malicious damage ceased to be isolated acts of ill-will, malice or unlawfulness, and became involved in a system of warfare on both sides. Efforts were made by the British Government to deal with this new aspect and development of malicious damage by the Acts of 1919 (9 Geo. V, c. 14) and 1920 (10 & 11 Geo. V, c. 66). During the progress of the years 1921 and 1922 the position as to claims for compensation became more and more difficult and confused. The claims for damage done to supporters of the British were brought before the county court judges in the various county courts. Orders were issued by the Minister for Local Government under the Dail that any county council, made a defendant in any such proceedings, should not appear to oppose the same in any British Court, and that any awards made should not be paid. In such undefended proceedings many awards of excessive amount were made, even though the judge endeavoured, as best he could, to sift the evidence. Orders for payment were disregarded. Where damage was done by the British forces to the person or property of the supporters of the national movement, either by way of reprisal or otherwise, no claims were made against the county, save in rare cases, and the burden was left on the individual. Finally, to solve this difficulty, the two Governments, in 1922, entered into an agreement (May 8) to appoint a Compensation Commission, under the presidency of Lord Shaw of Dunfermline, to determine and report what compensation should in reason and fairness be awarded in respect of damage to property in the pre-truce period, where it was of such a nature as would give rise to a claim under the law as to criminal injuries, or as a result of action taken by order of the military authorities under martial law. The classes of cases to come before them were either those where no proceedings had been instituted, or, if instituted, where no decree had been made ; and also cases which had been undefended, where a final decree had been made, but the amount had not been discharged. The decisions of this committee were to be in the nature of a report, or recommendation, as to the sums to be paid to the applicants by the British Treasury or the Minister of Finance of the Provisional Government.

This Commission had operated but for a short time when the period of armed rebellion broke out against the Provisional Government, and property of all classes was again subject to a recrudescence of damage and destruction. There was also a good deal of raiding for money, a source of loss which had never come under the code. It then became obvious that to solve all this trouble the old code must, at least temporarily, be set aside.

A new agreement, dated April 9, 1923, was made between the two Governments, whereby the Compensation Commission was to be con-

tinued (Lord Shaw having resigned) under Sir A. Wood Renton, K.C., K.C.M.G., formerly Chief Justice of Ceylon, and Vice-President of the Egyptian Riots Indemnities Commission. They were given power to hear all claims in respect of injury to property from July 21, 1919, until July 11, 1921, and to review awards already made in undefended cases. All defended decrees and all awards made by the Commission were to be paid, in first instance, by the Free State Government, who would be refunded, by the British Government, the total amount of awards which in the opinion of the Commission were attributable to damage done by Forces of the Crown or their supporters. As regards injuries to the person, it was agreed that, in respect of such injuries, inflicted between January 21, 1919, and July 11, 1921, each should be responsible for compensation payable to its own supporters; and the Free State Government would pay in full all decrees awarded to members of the British Forces, killed after the Truce, in circumstances which would amount to a breach of the Truce.

This agreement having provided for compensation to the British, the Government of the Saorstát had to make provision in respect of damage done during the armed rebellion, as well as the other difficulties that had arisen.

This was done by the Damage to Property (Compensation) Act, No. 15 (1923). The Act is divided into three parts, of which the second is the most important. The first part, in substance, bars all legal proceedings under the Criminal Injuries Acts for any injury to person or property committed between January 21, 1919, and July 11, 1921. These claims were referred to the Compensation Commission, already mentioned, those for personal injury going before a Personal Injury Committee, appointed by the Saorstát Government. Part II of the Act (ss. 2–16) applies to all injuries committed during the post-truce period, from July 11, 1921, until March 20, 1923, including the period of armed rebellion. It is limited to injuries in respect of which compensation could have been given under the code, or in respect of which a decree has been made. The latter may be reopened and reheard on the application of the claimant or the Minister of Finance. S. 6 limits the compensation to the actual damage done to the property and excludes consequential loss. No compensation can be given for loss or destruction of coin, bank notes, or currency notes, or articles in the nature of jewellery other than stock-in-trade. As railway companies had suffered particularly through bridges being blown up, stations burnt and rolling stock and goods being destroyed, special provision was made, by s. 8, that no claim under the Act should be made in respect of the same, but same would be settled by agreement with the Minister of Finance. S. 9 introduced an unusual provision disentitling the applicant to compensation if he connived at the committal of the injury, or if he was in league with persons for the commission of similar offences, or was an active sympathizer of any organization engaged in armed opposition to the Government. S. 10 contains elaborate provisions whereby the judge can attach to any award for a destroyed building, a condition of reinstatement either in whole or in part of the structure destroyed save that, in respect of buildings destroyed in Upper Sackville Street, Dublin, if used for trade or business, the condition of reinstatement must attach. Where, in the destruction of business premises, or the burning of solicitors' offices, valuable documents had been destroyed these could be

claimed for, and a scale of compensation for same was fixed by the Minister of Finance in consultation with the Attorney-General and the President of the Law Society of Ireland. This covered such documents as title-deeds, contracts, debentures, share certificates, insurance policies, wills and testamentary documents, and documents in legal proceedings. S. 15 made provision for claiming, in the case of the destruction of bank or Government notes or paper currency or the taking of chattels, without the consent of the owner, by persons acting in the name of any combination for the overthrow of the Government, or, in the case of damage which occurred during a conflict between the armed forces of the Government and persons offering armed resistance. In such cases the compensation is in the nature of an *ex gratia* grant. The operation of this Act was, by the Damage to Property (Amendment) Act, No. 43 (1923), extended for a further three months, namely, until May 12, 1923. By another Amendment Act, No. 42 (1923), the Minister for Finance was authorized to issue securities in discharge of limited liability in cases under s. 15 of the principal Act.

Reconstruction is closely allied to compensation, and we should note the Dublin Reconstruction (Emergency Provisions) Act, No. 24 (1924), which contained special sections dealing with the erection of buildings and the making of new streets in connexion with the reconstruction of areas, streets and buildings in Dublin, damaged or destroyed, during the disturbances in the city in the period of armed rebellion. S. 1 gave the Corporation of the city power to acquire or substitute land compulsorily, if necessary, for the purpose of street improvement in the destroyed area, and if there were any narrow or inconvenient sites, incapable of being built on by way of reconstruction, so as to harmonize with the general scheme, the Corporation was empowered, by s. 2, to purchase them and sell them to the best advantage of the scheme of reconstruction. To prevent the erection in the destroyed area of buildings unsuitable, or of a character to be injurious to the amenity of the street, either by way of design, frontage or materials, the city architect was given control, and all plans for such had to be approved of by him in these respects (s. 3). Further, on the application of the Corporation, the Minister can order the removal of any unsuitable buildings, existing on the site, so as to interfere with the frontage. To preserve existing rights, s. 10 provides that in respect of licensed premises that have been destroyed, the licence, for the purpose of renewal and renewal certificates, is to be deemed to be in existence until the rebuilding or restoration of the premises. Under the existing law the destruction of the premises would, if they lay derelict for a time, nullify the licence. By s. 11 the same protection was given to houses or premises to which, prior to their destruction, the Town Tenants Act (1906) applied; on rebuilding they come again under the Act.

Dail Courts. — One of the most effective institutions, forged more as a weapon against British administration than as a definite and perfect system, was the Dail Judiciary. It first took the form of National Arbitration Courts, set up pursuant to a decree of the First Dail Eireann in June 1919, to be more formally established under a decree of the same body on June 29, 1920. Apart from the policy underlying the creation of these Courts, there was a necessity for such throughout the country. Though the superior and County Courts under the British regime were still functioning, the Petty Sessions Courts, which depended on the co-

operation of the Royal Irish Constabulary, the magistracy and the British executive, had collapsed. The Royal Irish Constabulary had been compelled to withdraw from the outlying districts and stations to the larger towns, and had become an armed garrison rather than a civil police force. Many magistrates had resigned their Commissions of the Peace or had been removed from the same. Hence there was real work for these inferior Courts to do. The rival Courts were of a rough-and-ready character, and under much difficulty they decided the disputes of ordinary life more on the lines of common sense and neighbourliness than by strict law.

The system consisted of (*a*) Parish Courts having the ordinary Petty Sessions Criminal jurisdiction, with power to deal with civil claims under £10; (*b*) District Courts, the equivalents of the County Courts having a civil jurisdiction up to £100, with circuit sittings for criminal trials and appeals from the Parish Court; and (*c*) a Supreme Court having unlimited original jurisdiction. The extent of the operation of this system may be judged from the fact that 900 Parish Courts and 77 District Courts came into operation. A side-light on the anti-British nature of the movement is thrown by the provision of the Code of Rules as to the law to be administered. It is as follows:

The law as recognized on January 21, 1919, shall until amended continue in force, except such portion thereof as was clearly motived by religious or political animosity. . . . Without prejudice to the foregoing, pending the enactment of a Code by the Dail, citations may be made to any Court from the early Irish Law Codes, or any commentary upon them in so far as they may be applicable to modern conditions, and from the Code Napoléon, or other codes, the Corpus Juris Civilis, or works embodying or commenting on Roman law; but such citations shall not be of binding authority. Save as aforesaid, no legal textbook published in Great Britain shall be cited to any Court.

The two inferior Courts operated over a large area, though with difficulty, until the Truce in July 1921. But after the Truce difficulties arose. Abuses crept in, and in many instances litigants who anticipated an adverse decision in the British Courts resorted to the Dail Courts to restrain their opponents from the continuance of the proceedings in the other Court. There were traces that they were used as channels of corruption, and by persons not in search of justice but anxious for the obstruction of justice. Accordingly, the Government of the Saorstát, succeeding to the Provisional Government, was faced with one of two alternatives, either to reconstruct and perfect the improvised occasional tribunals of the First Dail, or to stabilize and confirm the official State Courts, which had been now taken over by them from the British with their complete machinery. To avoid this duplication and abuse which had crept in, the Executive decided that the Dail Courts should go, and that provision should be made for bringing to a close all pending proceedings.

To deal with this anomalous state of affairs, the Dail Eireann Courts (Winding Up) Act, No. 36 (1923), was passed. It is entitled, "An Act to provide for the appointment of Commissioners to dispose of cases which are pending in the Courts, established under the authority of Dail Eireann, to establish a Register of decrees of such Courts, and to make other provisions for the purpose of winding up the Courts aforesaid and to afford relief in certain hardships and anomalies which have arisen." The expression "Dail Court" is defined under s. 1 to mean

any Court which was constituted under a Decree, made in the year 1920, by the Minister of Home Affairs, purporting to act under the authority of Dail Eireann, constituted by the Government of Saorstát Eireann and by the members who were elected for constituencies in Ireland and who first assembled in the Parliament held, in the Mansion House at Dublin, on January 21, 1919. By s. 1 the authority of all Parish and District Courts is deemed to have been withdrawn on October 31, 1922, and of all other Courts on July 25, 1922. By s. 2 the new Dail Winding-up Court is established, to be constituted of Judicial and Assistant Commissioners with legal qualifications and standing, removable at the pleasure of the Governor-General, on the advice of the Executive Council. The position of litigants in these Courts is determined under s. 4, which empowers any party to any pending proceeding, in any Dail Court, or an appellant in any pending appeal therein, to apply to the judicial commissioners to have the case of appeal determined. This power could only be exercised after the decree appealed from had been registered (s. 5). A registered decree also carried the right to issue execution thereon by leave of the commissioners, if not subject to appeal. Cases from the Parish Courts could be dealt with by an assistant commissioner, with an appeal to a judicial commissioner (s. 6).

During the conflict of the Dail and British Courts proceedings in reference to the same subject-matter were often brought by the respective parties in both Courts, each moving in that which was thought more favourable or effective. The British Courts had always refused to recognize the Dail Courts or their judgments, and *vice versa*, with a tendency in each to penalize the party who had sought the protection of the rival Court. By ss. 8 and 9, not only orders already made in British Courts, but proceedings in any other Court in conflict or inconsistent with the proceedings in the Dail Court could, by order of the Commissioner in the Winding-up Court, be restrained. A registry of Dail Court decrees was established under s. 12, and notice of the registration of any decree was given to any persons interested as appearing to be affected or bound thereby. S. 14 enacted that, when the Dail Winding-up Court had finally completed its winding-up business for which it was established, the register and records should be transferred to the High Court and preserved with the records of that Court. S. 20 gave to the commissioners many of the powers of the High Court judges as to witnesses' expenses, evidence and costs. Where judgments had been made in the Dail Courts in the absence of a party, power was given to reopen the proceedings if a *bona fide* defence was shown.

This Act had not made provision for the winding-up of the pending cases in the Land Settlement Court of Dail Eireann, and, as it became obvious that some provision for this would be required, an amending Act, the Dail Eireann (Winding-up) Act Amendment Act, No. 32 (1924), was passed. By s. 1 it included in the term " Dail Court," used in the previous Act, any Court constituted under the authority of Dail Eireann, and presided over by persons, who subsequently presided over it, and a Court confirmed in its functions by a decree entitled, " Proposals constituting a National Land Settlement Commission for the purpose of carrying the Land Settlement Schemes of An Dail into effect made on September 11, 1920," in this Act called " The Dail Land Court." By s. 2 the Commissioners of the Irish Land Commission were appointed Judicial Commissioners for the purposes of this Act. The principal Act

was adapted to the proceedings of the Dail Land Court (s. 3) and additional powers as to hearing appeals as to registrations were given. A very important provision was contained in s. 6, which declared that decrees of the Dail Land Court were to be deemed arbitration awards of a properly constituted court of arbitration, and might be made a rule of Court.

Local Government.—Another urgent matter which had to be dealt with was Local Government. Many of the serious defects of the system had become aggravated in recent years, and the system of poor relief had become disorganized. It had long been recognized that the existing laws as to the relief of the poor were wholly unsuited to the conditions of the country, and caused unnecessary hardship to persons requiring relief. The cost of administration had become excessive. While the Government had in view a comprehensive reorganization of the whole law of Local Government, it was necessary to remedy at once the more serious defects, put into operation, and, where necessary, validate the schemes for relief of the poor which had been prepared, and, in some places, put in operation by the county councils to obviate the more pressing defects in working the existing poor law administration.

The principal provisions of the schemes referred to were: (1) the abolition of the existing system, under which the poor relief in workhouses was established in each poor law union; (2) the centralization of the administration under one authority in each county; (3) the establishment in each county of one central institution for the poor; (4) the provision that poor persons requiring relief could be relieved, either in or out of the central institution, as thought advisable. The schemes were to be in operation for one year under this Act.

In the first place, by s. 4, the Minister of Local Government was empowered to confirm, with or without alteration, or to reject, any county scheme. The scheme might abolish any board, committee or body existing in the county, exercising functions connected with the relief of the poor (s. 7). Restrictions upon outdoor relief were abolished by s. 10, and any person entitled to poor relief might be given it "outdoor," that is, in his own home or otherwise than in the workhouse. S. 11 provided superannuation of officers, whose offices were abolished by reason of the reduction of existing staff. Some of the local bodies were inefficient, and discharged their duties in a very unsatisfactory manner; some had majorities adverse to the Government and were unwilling to comply with orders of the Local Government Board Minister or to comply with orders or judgments of the Courts of the Saorstát. In such cases, s. 12 empowered the Minister to dissolve such local body by order, and either direct a new election of members of the local authority, or transfer the powers and duties of such body to a person or persons as he might think fit. In several cases these powers were exercised and the duties discharged by nominated commissioners. Incidentally, as of interest, this Act by s. 16 empowered any county council or urban council to raise a rate of 1*d.* in the £ for the purpose of providing instruction in the Irish language. Some of the provisions of this Act were slightly altered by the re-enacting Act, the Local Government (Temporary Provisions) Act, No. 13 (1924), and by it the county schemes were prolonged as long as the principal Act of 1923 remained in force.

Courts and Criminal Law.—One of the most striking acts of the Saorstát Government has been the abolition of the British Judiciary

and system of Courts. This seemed to be determined upon from the earliest moment, and it bore fruit in the appointment of the Judiciary Committee on January 27, 1923, to advise the Executive Council as to establishment in accordance with the constitution of Courts for the exercise of judicial power and the administration of justice in Saorstát Eireann. Under Art. 64 of the Constitution, Courts of Saorstát Eireann were to be established and the point of view from which the Committee was to approach the subject was clearly set out in a letter from the President of the Executive Council to each member of the Committee. The relevant portion was as follows :

In the long struggle for the right to rule in our own country there has been no sphere of the administration lately ended which impressed itself on the minds of our people as a standing monument of alien government more than the system, the machinery, and the administration of law and justice, which supplanted in comparatively modern times the laws and institutions till then a part of the living national organism. The body of laws and the system of judicature so imposed upon this Nation were English (not even British) in their seed, English in their growth, English in their vitality. Their ritual, their nomenclature, were only to be understood by the student of the history of the people of Southern Britain. A remarkable and characteristic product of the genius of that people, the manner of their administration prevented them from striking root in the fertile soil of this Nation.

Thus it comes that there is nothing more prized among our newly won liberties than the liberty to construct a system of judiciary and an administration of law and justice according to the dictates of our own needs and after a pattern of our own designing. This liberty is established and the headline is set in the Constitution drawn up and passed by the elected representatives of our people.

The Committee is requested to approach the matters referred to them untrammelled by any regard to any of the existing systems of judicature in this country, to examine the nature and classification of the legal business, both contentious and non-contentious, for the due discharge of which in the interests of justice, machinery and establishment should be provided by the State and to consider and report upon the requirements of the litigants and other persons interested, and especially as to accessibility, efficiency, expedition and cost.

The Committee having sat, issued a report on May 25, 1923, upon which the Government based their Courts of Justice Act, No. 10 (1924). It effectually secures the complete disruption of the system of British Courts in the Saorstát and introduces most striking changes both in establishment and administration. The British system had in the main consisted of :

(1) Petty Sessions Courts presided over by unpaid magistrates, with the assistance of a resident magistrate who was paid (generally a retired officer of military or police experience). This was the Court of Summary Jurisdiction, with a very small civil jurisdiction limited mainly to debts under £2, cottier tenancies and small tenancies in towns.

(2) County Courts, one for each county, presided over by a barrister of at least ten years' standing. This Court had a very varied jurisdiction, but in the main it exercised on the common law side a jurisdiction in contract and tort up to 150, and in connexion with disputes as to land where the poor law valuation did not exceed £30 per annum. On the equity side it had jurisdiction as to property not exceeding £500 in value. It had a limited admiralty and criminal jurisdiction, the latter

covering substantially all minor offences and misdemeanours, triable by a jury at Quarter Sessions. It was also the Appeal Court from Petty Sessions.

(3) The Supreme Court of Judicature, consisting of the High Court of Justice and the Court of Appeal. The High Court had unlimited original jurisdiction, and in it the bulk of the legal work of the country was done, including much that was in the jurisdiction of the County Court. In theory the Divisions of the High Court had been abolished, but there continued a separate office for each class of work, such as Chancery, Admiralty, Bankruptcy, King's Bench, Probate and Matrimonial. The High Court was under the Presidency of the Lord Chief Justice. The Court of Appeal was a separate establishment under the Presidency of the Lord Chancellor and had its own offices and officials.

(4) The Court of Crown Cases Reserved, the only Court of Criminal Appeal, to consider questions of criminal law reserved for their consideration by the judge of the High Court at the trial. This Court seldom sat.

The scheme of the New Judiciary was as follows :

(1) The Petty Sessions Court is replaced by that of the District Court, presided over alone by a paid District Justice, who must be a practising barrister or solicitor of at least six years' standing. Justices of the Peace (or, as they are now called, Peace Commissioners) take no part in its deliberations and have no judicial powers. The jurisdiction on the criminal side is, in substance, still that of summary jurisdiction for minor offences, together with the magisterial duty of taking depositions and informations in more serious offences, as a preliminary to trial by jury, if so directed by the Attorney-General. The civil jurisdiction is increased to £25 in actions based on contract and £10 damages in actions for tort.

(2) The County Court has been abolished, and it is in its substitute that the greatest change has been made. Instead of a county court area as the territorial limit for each county court judge, eight Courts, called " Circuit Courts," have been formed in the Saorstát by grouping several counties under each judge, where it can be done, on a population basis of in or about 400,000 for each circuit. Over each of these areas the presiding judge is called the Circuit Judge. His jurisdiction extends over all claims for debt or damages up to £300, while on the equity side he can deal with practically all questions of administration, mortgage, specific performance, etc., over assets up to £1,000 or land of which the poor law valuation does not exceed £60 per annum. He is also given a bankruptcy jurisdiction, and a company winding up jurisdiction, where the issued capital does not exceed £10,000. On the criminal side this Court can try all felonies and misdemeanours save murder, high treason and piracy. It has none of the jurisdiction of the former King's Bench over Crown Office matters, such as *habeas corpus*, *mandamus*, *certiorari*, prohibition or *quo warranto*. It is also the Appellate Court from the District Court, and deals, in first instance, with claims under the Workmen's Compensation Act and the Malicious Injury Code. The appeal on the civil side from this Court goes to the High Court, where it is heard by two judges, on a rehearing both on fact and law, on the shorthand writer's notes of the proceedings in the lower Court. On the criminal side the appeal goes to the Court of Criminal Appeal mentioned below.

(3) The High Court consists of six judges, one of whom, named the President of the High Court, presides. This Court sits in Dublin, and its judges also preside at the Central Criminal Court in Dublin, where all the serious crime of the country is tried. The High Court has transferred to it all the jurisdiction given to it by the Constitution, and also the jurisdiction vested in the similar Court under the British system. It has original jurisdiction in all questions of the validity of statutes as being within or without the Constitution, and also on all questions of what was formerly called Crown Office cases.

(4) The Supreme Court, of three judges, of whom the President is the Chief Justice, has the appellate jurisdiction from the High Court prescribed by the Constitution as well as all the appellate jurisdiction of the Court of Appeal under the British system.

(5) Under the special jurisdiction of the Chief Justice (the prefix "Lord" has been dropped) are the matters formerly under the Lord Chancellor, such as lunatics, minors, solicitors, notaries public and commissioners of affidavits.

(6) A Court of Criminal Appeal (similar to that in England) has been set up. It sits permanently in Dublin, unless for special reason. The procedure is also similar to that in England and the decision of the Court is final unless a certificate is obtained from the Attorney-General that the case involves a point of exceptional public importance when an appeal is given to the Supreme Court. The Court of Criminal Appeal consists of three judges, one of whom is the Chief Justice or a judge of the Supreme Court, the others being members of the High Court bench. In special cases the Chief Justice can request additional members of the High Court or Supreme Court to attend.

(7) The new Central Criminal Court is merely a term applied to the Judge of the High Court, to whom is assigned the duty of acting as such Court for the time being. In practice this Court sits in Dublin, once in every two months throughout the year, for the trial of all felonies and misdemeanours not tried in the Circuit Court or transferred to the Central Court from any part of the Saorstát on the application of the Attorney-General.

Necessary provision has been made for the transfer of all pending business, also for remitting to the Circuit Court of actions which are within its jurisdiction and not fit to be prosecuted in the High Court.

Under s. 27 of the Act all grand juries are abolished and the indictment is preferred directly to the jury that tries the case. S. 36 gives the Minister of Home Affairs (now the Minister of Justice) power to make rules, with the concurrence of the majority of the Rule-making Committee for the ordinary and necessary purposes of legal procedure, including the use of the national language in the Courts and as to the robes and official dress to be worn by the Bench and Bar. The Rule-making Committee consists of the Judges, the President of the Incorporated Law Society of Ireland and two practising barristers.

Even after the short time that this Act has been in operation it has become apparent that it will accomplish the decentralization of the Bar from the High Court centre in Dublin to these various and scattered Circuit Courts, in which the bulk of the business will be done, now that they have such an extended jurisdiction. The effect of this upon the legal profession, especially the Bar, and its discipline, is a matter of much concern.

In consequence of this Act it became necessary to review the administrative and official side of the work of the Courts and offices. This will be mainly accomplished by a Bill at present under consideration of the Dail.

Court-houses. — During the period of rival authority between the British Courts and those established under the order of First Dail Eireann, and for some time prior thereto, many of the court-houses throughout the country, in which by statute or Order the Quarter Sessions and Civil Bill Courts were to be held, had been destroyed and sittings were held in hotels, schools, halls, or where convenient. To regularize matters in the transitory period before the establishment of the new Courts, the County Court (Amendment) Act, No. 45 (1923), was passed, validating proceedings heard and orders made elsewhere than in the place required by statute or other law, and the County Court judge was empowered to name any court-house in the county for the transaction of the business from any other part. In some cases public documents, such as jurors' lists, etc., had been destroyed, and in such cases the under-sheriff was empowered to return the jurors from the last available list, or where no such list was available to summon as jurors such persons as appeared to him to be liable to serve in the district. As the service of legal documents was in many districts difficult or impossible, the County Court judge was also given power to deem good the service of any civil bill or jurors' summons under certain limitations.

Criminal Jurisdiction.—On the criminal side a much-delayed reform was enacted by the Criminal Justice (Evidence) Act, No. 27 (1924), whereby the prisoner charged, and the wife or husband of any prisoner charged, should be a competent witness for the defence at every stage of the proceedings, subject to the same limitations as in the English Act (61 & 62 Vict. c. 36) that it must be at the election of the prisoner. If he elects not to give such evidence it shall not be commented upon by the prosecution and he is liable to cross-examination.

The simplification of criminal procedure was dealt with in the Criminal Justice (Administration) Act, No. 44 (1924). By s. 1 it confirms a schedule of rules for the simplification of indictments and the abolition of cumbrous details such as one was familiar with under the old practice in Ireland. By s. 2 the Court is given power to make such amendments in the indictment as may be necessary to meet the circumstances of the case, and to order separate trials of any one or several prisoners and offences, where the Court is of opinion that a person accused might be prejudiced or embarrassed in his defence by reason of his being charged with more than one offence, or for any other reason. By s. 9 all criminal charges in any Court prosecuted upon indictment are to be public prosecutions by the Attorney-General. New forms of oaths, orders of *nolle prosequi* and recognizance are provided by ss. 10 & 14, the references to the Crown and the King being omitted and the Attorney-General of Saorstát Eireann substituted. The juror's oath now is simply to "try the issue as to whether the accused is guilty or not guilty of the offence charged in the indictment." The keynote to the regulations for simplifying indictments is contained in rule 4 (3), which prescribes that the indictment shall contain a statement of the offence describing the charge shortly in ordinary language, avoiding as far as possible the use of technical terms, and if it is an offence under a statute, shall contain a reference to the section of that statute.

Under the Courts Officers (Temporary Appointments) Act, No. 2 (1924), power was given, pending the establishment of a complete system of officials, to appoint certain officials temporarily for two years in the High Court or County Court.

By the Jurors (Amendment) Act, No. 18 (1924), the law was amended as to the preparation of the jurors' lists and prescribed that the electoral list prepared for election purposes under the Electoral Act, 1923, should include lists of jurors whether special or general, with particulars as to disqualification or exemption. S. 3 enacted that any woman liable to serve as a juror could claim exemption if she so desired—the first reaction from the suffragette movement.

Under this head of the administration of law should come the Licensing (Renewal of Licences) Act, No. 44 (1923). By reason of the cessation of the Petty Sessions Courts in many places, and also by reason of the refusal of many licensed holders to submit to these Courts, after January 21, 1919, the formality of the annual renewal of a licence at Petty Sessions had been neglected and technically therefore such licences became invalid. By s. 4 this Act applied to all licences which had lapsed after January 21, 1919 (*a*) because no annual licensing petty Sessions were held, in the county or borough where the premises were situated, or (*b*) because there was no justice of the peace or a sufficient number qualified to give the certificate, or (*c*) because the holder on account of his adherence to political principles refrained from applying for such renewal, or (*d*) because of the destruction of the licensed premises, or (*e*) for some other cause beyond the control of the holder the premises had not been open for twelve months covering such cases as internment, or imprisonment, or necessary absence of a holder. The general effect of the Act was that all such licences were deemed to be valid and effective as if they had been regularly renewed from the last renewal.

Land Laws.—The Land Act, No. 42 (1923), is essentially a land purchase act. Its main purpose was to complete the work begun in 1870 and continued during the latter half of the last century by the British Government, to enable Irish agricultural tenants to become the owners of their holdings. It is the seventh Act of the code. As a result of the previous Land Acts, 400,000 holdings had become the property of the tenants. A rental of £7,000,000 had been purchased by the State and about £[illegible],000,000 of Land Stock had been issued to vendors in payment. These extensive operations were, in the main, the result of the Act known as Wyndham's Act, 1903. It effected what is considered by many to be the greatest revolution in Ireland prior to that which ended in the Treaty. There still remain 70,000 tenants who have not bought out their holdings, with an annual rental of about £800,000. It is contemplated that, when the operations of this Act are completed, there will not be in the Saorstát a single tenant who has not become the owner of his holding. It is estimated that to carry out the Act will cost between 25 and 30 millions of pounds sterling. The difficulty of determining what price the tenant should pay was solved on the basis of the annuity to be paid to discharge the purchase money to the State. This was fixed at an annual payment in lieu of rent of 75 per cent. of the annual rent of the holding at the passing of the Act. The price to be paid to the landlord was fifteen years' purchase of the rent plus 10 per cent. thereon added by the State. This was

paid in Government Land Bonds at 4½ per cent. interest and ¼ per cent. sinking fund.

The Act also deals with untenanted lands in congested districts, so as to make them available for distribution among what are called "landless men." The arrears of rent that had accumulated since 1920 were very considerable, and the Act dealt with them by making arrears prior to that date irrecoverable by the landlord, and by allowing on arrears, since that date, an abatement of 25 per cent.

Part I (ss. 1–17) deals with finance, and authorizes the creation of the 4½ per cent. Bonds and the advances to be made.

Part II (ss. 18–47) details the new scheme of land purchase and collection of and liability for arrears of rent. S. 19 is important. It abolishes all liability for rent and arrears of rent, as such, but provides for the ascertainment and payment of "compounded arrears of rent." The term "compounded arrears" is defined to mean a sum equivalent to the total rent and arrears of rent due on the gale day next preceding the passing of the Act and accrued since 1920, less a deduction of 25 per cent. (s. 19 (2)). These arrears are payable, as to an amount not exceeding 75 per cent. of the annual rent, immediately on the passing of the Act, and as to the balance, as prescribed by the rules of the Land Commission. Where there are not less than three years' arrears, the tenant can have the amount of half a year's arrears added to his purchase money and repaid by a purchase annuity, added to and consolidated with the purchase annuity for the holding (s. 19 (3)). The landlord has no longer any right to sue for these arrears of rent. Under s. 19 (4) they are to be collected by the Land Commission, and by them accounted for to the person entitled thereto less income-tax and costs of collection. S. 21 gives the Land Commission the right to exercise the same remedies as to recovery of "compounded arrears" as they have for the recovery of unpaid annual instalments of purchase annuities. Thus, it is all taken out of the landlord's hands.

S. 24 of the Act has already become famous, as its interpretation was the *casus belli* in the case of *Lynam* v. *Butler*,[1] which has now become of importance in constitutional law. The section enacts that all tenanted lands and untenanted lands in a congested district or required for the relief of congestion shall vest in the Land Commission (not on the passing of the Act but on a day appointed by the Land Commission under s. 70). The question in Lynam's case was whether the landlord's common law rights as to such lands were stayed, as from the passing of the Act, notwithstanding that the date of vesting of the lands in the Land Commission had not been fixed. The Supreme Court, by a majority, held that they were so stayed and that the determination of a lease for lives during that interim period gave no right to recover possession. Leave to appeal was given by the Privy Council. The Executive Council were of opinion that the leave given in such a case on domestic law was in breach of the Constitution, and they passed a section in a recent Act nullifying the appeal by enacting that the law was as decided by the majority of the Supreme Court. This left the appellant in such a position that the appeal has been abandoned.

By ss. 28 (6) and 29 the Land Commission were given power to retain certain holdings in their own possession, and to deal with them under their powers, having regard to the necessity for relieving congestion,

[1] [1925] 2 I.R. 82.

that is, transferring tenants from crowded districts to these holdings, or having regard to the desirability of increasing the food supply of the country. In the event of the resale of any of the holdings retained by the Land Commission, they were empowered under s. 30 to advance on behalf of the purchaser a sum limited, save in special circumstances, to £3,000. Under s. 31 there were six special classes to whom these advances could be made, such as tenants of uneconomic holdings; tenants who had agreed with the Land Commission to exchange holdings; tenants evicted from their holdings within twenty-five years prior to 1903; labourers deprived of their employment by reason of the sale of lands; trustees under s. 4 of the Land Act of 1903, and other persons specially selected by the Land Commission. There are many sections dealing with the details of this specialized branch of the subject. From s. 32 to s. 47 provisions are made for resale of untenanted land to owners; resale to tenants of retained holdings; vesting of rearranged holdings; resale of demesnes to owners; redemption of rents and superior interests; powers as to turbary and rights of way; and as to ancient monuments. Under s. 45 all sporting and fishery rights appurtenant to the lands shall vest in the Land Commission, subject to any existing leases and at a price to be fixed by the Land Commission as a fair value subject to appeal. Subs. 5 of s. 45 vests the right of mining and taking minerals in the State save where a mine or quarry is being worked by the owner, and saving stone, gravel, sand or clay.

Part III of the Act contains very interesting provisions dealing with the National Land Bank, which may be fairly described as a quasi state-bank. The history of this bank is that, during the struggle with the British Government, it was at one time suspected that a special land division movement on their part might cut across the national movement. To defeat this the first Dail Eireann set up land courts of its own, by which decrees as to division and other matters were made on claims by tenants, evicted tenants and others. As part of these decrees, prices for portions of lands were fixed. In order that these decisions might be financed the Land Bank was set up by the first Dail to make necessary advances, and its work was largely political. The total number of acres purchased under these decrees and with the aid of advances so made by the Land Bank was 10,730. To facilitate this scheme, Land Bank Societies had been formed, on the co-operative system, in many districts by the grouping together of the purchasers of fee-simple holdings in such neighbourhood, so as to enable a co-operative security to be given to the Land Bank of all the lands involved and in respect of which advances had been made to the co-operative society for the benefit of its purchasing members. In some cases the land was in fact owned by the Land Bank Society. The National Land Bank advanced about £339,000 in 1919, 1920 and 1921. In more recent times there had been much trouble between them and the tenants as to the rate of interest and sinking fund. Accordingly, in the interests of peace, the Government in passing this Land Act of 1923 agreed to pay off the indebtedness of the Land Societies to the Land Bank, take over the land from the society, and resell under the terms of the Act. The result was that, by reason of the provision enabling them to pay the National Land Bank in Land Bonds, the societies had the advantage of getting the money at 4½ per cent. interest instead of 7 per cent., which was the rate on the original loan. S. 49 provides that all land purchased

by any society on an advance made by the bank is to vest in the Land Commission, which under s. 52 is to fix the price for the land, at such sum as would redeem superior interests and pay off the charge to the Land Bank to be so paid in the 4½ per cent. Land Bonds. S. 54 deals with resale to the societies at ten-elevenths of the price paid to the bank and to clear other interests, the society to pay an annual sum as purchase annuity calculated at 4¾ per cent. on the sum at which the lands are bought by them.

Part IV of the Act contains some new provisions as to registration of title mainly to quiet possession in fact as far as possible. Ss. 59 and 60 empower the registration with possessory or qualified title of lands in the name of the person certified by the Land Commission to appear to be in possession thereof as full or limited owner. But such registration is without prejudice to any estates or interests adverse to or in derogation of the rights of the registered owner. S. 64 puts an end to the fixing of judicial rents under the Land Law (Ir.) Acts in respect of any holding and thus to that very effective system of securing for Irish tenants of agricultural or pastoral holdings what is popularly called the "fair rent." By s. 65 all subdivision of holdings or subletting thereof, without the consent of the Land Commission, is prohibited and made void as against all persons.

It is interesting to note, by the way, that this Land Act was passed, with a special declaration that it was necessary for the immediate preservation of public peace. This avoided the operation of Art. 47 of the Constitution, which imposes a suspension of every measure for a period of seven days, to enable steps to be taken, if so desired, preliminary to a referendum upon it, and excepts from the Article any bill declared by both Houses to be necessary for immediate preservation of public peace, health or safety.

As a result of the operations of the Transfer of Functions Order (April 1, 1923), which transferred the administration of the Land Acts, the office of Commissioner of the Irish Land Commission ceased to exist, and it became necessary to reconstitute the Land Commission, which was the department of the Civil Service dealing with these Acts. This was done by the Land Law (Commission) Act, No. 27 (1923). There are three bodies dealt with in this Act, the Land Commission, the Estates Commissioners and the Congested District Board. The Land Commission was constituted by s. 41 of the Land Act of 1881. It consisted of judicial and lay commissioners. The Estate Commissioners were the lay commissioners of the Land Commission, and were constituted by s. 23 of the Land Act of 1903. The lay Land Commissioners administered the Land Acts; and the same persons, as the Estates Commissioners, administered the Land Purchase Acts. This Act now abolishes the two titles for the same personnel, and as one body they now administer both Land Acts and Land Purchase Acts. The Congested District Board was set up under s. 34 of the Land Purchase Act of 1891, but received increased powers from succeeding Acts. It had duties not only as to land purchase but as to fisheries and industries. The latter have been transferred to the appropriate ministries of Fisheries and Industry, so that the Congested District Board was left with only land purchase duties. Under the new Act these land purchase powers are vested in the new Land Commission, so that there is now only one body dealing with all land law and land purchase functions. All staffs are trans-

ferred to the Land Commission, all grants in aid from various sources to the Congested District Board are abolished, and in future the reconstituted Land Commission will be financed by moneys voted from the Oireachtas. Ss. 1–4 of the Act deal with the appointment of the Judicial Commissioner and the Lay Commissioners by the Executive Council. S. 5 dissolves the Congested District Board and s. 6 transfers its powers and jurisdiction to the Irish Land Commission. The disposal of the funds of the Congested District Board is regulated (s. 9) by repealing the statutory provisions as to grants in aid, and enacting in s. 13 that all moneys are to be provided by the Oireachtas.

By s. 3 of the Irish Free State (Consequential Provisions) Act, 1922, a corporate body called the Irish Soldiers' and Sailors' Land Trust was established, to provide in Ireland cottages with or without plots for ex-service men in Ireland, and a sum of £1,500,000 was to be applied for the purposes of the Trust. The Act was not to come into operation until legislation was passed by the Oireachtas to enable the Trust to acquire and hold land and otherwise enable the Trust to carry out its purpose. This was done by the Land Trust Powers Act, No. 25 (1923), which by s. 1 gave the Trust the necessary powers by voluntary sale and purchase to acquire lands and carry out the trust in the Saorstát and gave the Minister of Local Government power at the request of the Trust to acquire land, otherwise than by agreement, and put in force the powers of the Local Government Board for that purpose.

The State Lands Act, No. 45 (1924), authorizes the Minister of Finance to make leases and grant licences, not exceeding 99 years, of any of the State Lands which by virtue of Art. 11 of the Constitution were transferred from the Crown. By s. 2 a statement of every proposed lease shall be laid before the Oireachtas for approval.

Railways.—By reason of the combined effect of the European War and the conflict in Ireland from 1919, the railways in the Saorstát had become in a parlous condition. Not only had they been affected financially, but their physical structure had deteriorated both as to permanent ways and rolling-stock. Discussions and suggestions as to the nationalization of the entire system ended with the enactment The Railways Act, No. 29 (1924).

The three primary objects of this Act were to reorganize the entire system so as to lessen the cost of administration, establish a Railway Tribunal and to regulate charges. There were at that time operating exclusively in the Saorstát four main companies, the Great Southern and Western Railway Co., the Midland Great Western Railway Company of Ireland, the Dublin and South-Eastern Railway Company, and the Cork, Bandon and South Coast Railway Company. There were also twenty-two minor or subsidiary companies with short lines operating in connexion with one or other of the main companies.

Under s. 2 of the Act the four main companies were to form one amalgamated company on terms arrived at either by agreement, or as determined by the Railway Tribunal established under the Act. By s. 4 the provisions to be contained in the amalgamation scheme were set out. They are similar to those contained in the British statute (Railways Act, 1921; 11 & 12 Geo. V, c. 55) with reference to share and loan capital, the vesting of property, the substitution of securities of the amalgamated company for those of the amalgamating companies, and compensation to officers who retired or resigned in consequence of

the abolition of office. By ss. 5 and 6 corresponding provisions were made, whereby the minor companies were to be absorbed by the amalgamating companies or some of them on terms agreed upon or determined by the Railway Tribunal. By s. 8 the terms and conditions of amalgamation or absorption were mainly to be determined with reference to the value of the net revenue-earning basis of each of the amalgamating or absorbed companies as a separate company and its value as a component part of the amalgamated company.

Part II of the Act (ss. 13 *et seqq*) establishes the Railway Tribunal consisting of a chairman and two members, the chairman to have legal qualifications and the others to have commercial and railway experience respectively. Any question before them is determined by the decision of the majority subject to a right of appeal to the supreme Court on any question which is not a question of fact or a question arising under Part I of the Act as to amalgamation, or as to *locus standi* (ss. 21 and 22).

The Act provides under Part III (ss. 24 *et seqq.*) for the revision of the railway charges, the classification of merchandise, the settlement of schedules of standard charges for merchandise, terminal charges and passenger fares. S. 40 empowers the Tribunal to settle the terms and conditions of carriage at "company's risk," " owner's risk," and for damageable goods not properly protected. S. 46 makes provision for collection and delivery charges, and s. 47 for the conveyance of dangerous goods.

Part IV deals with trade union, labour and wages, and the confirmation of agreements made as to pay, duties or conditions of service between a trade union representing the employees and the company.

In connexion with the working and regulation of the railways, Part V (s. 58) empowers the Tribunal to require reasonable services, facilities and conveniences to be provided for the public safety or the interest of any trade, or particular locality.

Many of the light railways in Ireland established under the Tramways and Public Companies (Ir.) Act, 1883, had in pursuance of that Act their dividends guaranteed by the local authorities out of moneys levied as rates upon the baronies which the railways served. Part VI of the Act puts an end to this liability on the local authority and makes the sums so necessary payable by the Minister of Industry and Commerce and the liability of the County Council in reference thereto ceases as from December 31, 1924.

Electoral Law.—Owing to the constitutional changes that had been made it became necessary to regulate the Dail and Seanad franchises ; to amend and consolidate the registration laws and those referring to the conduct of elections, as well as to make provisions for carrying out a referendum.

This was effected by the Electoral Act, No. 12 (1923). By s. 1 every person without distinction of sex who is a citizen of the Soarstát, over twenty-one years of age and not otherwise legally incapacitated, is entitled to be registered as a Dail elector ; and, as a Seanad elector, if over thirty years of age (s. 2). By s. 4 the receipt by an elector of poor relief or alms shall not disqualify either for Dail or Seanad election or on a referendum. Members of the Police Force cannot be registered or vote (s. 5). Provisions for registration are contained in Part II of the Act from ss. 8 to 16. The first register of electors was to be pre-

pared as of October 15, 1922, and revised annually. This register was to come into operation on June 1, 1923, for one year. By s. 16 a right of appeal from any decision of the Registration Officer was given to the County Court, now the Circuit Court, or Revising Barrister, with a further appeal on a point of law from the Circuit Court to the Supreme Court.

Part III deals with the method and costs of election (ss. 17–42). A contested Dail or Seanad election is to be (s. 17) according to the principle of Proportional Representation, each elector having one transferable vote, an expression defined as meaning a vote capable of being given so as to indicate the voter's preference for the candidates in order, and capable of being transferred to the next choice under named conditions. By s. 20 each candidate for a Dail election has to deposit £100, to be forfeited if the number of votes polled by the candidate does not exceed one-third of the quota. If he dies or withdraws before the election, the deposit is returned. A successful candidate, who takes the oath as a member of the Oireachtas, has his deposit returned, but, if he refuse to take the oath, it is forfeited. Provisions as to postal voting are made by s. 21. This system applies to every elector for a university constituency and to any other Dail or Seanad elector who desires to be entered on the postal voters' list. A voter on the postal list cannot vote in any other manner. By s. 23 the returning officers, save in the case of the Universities, are the under-sheriffs, whose expenses, in connexion with the conduct of the election, are subject to the limits of a maximum scale and taxation by the County Court and are payable by the Minister of Finance out of the Central Fund. The remaining sections of this Part of the Act make provision for the detail work of conducting the election, ensuring secrecy, maintaining order, etc. Ss. 43–6 regulate the Seanad election. Votes are recorded by constituencies as at a general election (s. 43). The procedure is the same as in a Dail election, and by s. 46 it must be held on the same day and on one day throughout the Saorstát.

The Referendum is a new election incident made necessary by Art. 47 of the Constitution on a demand by resolution of the Seanad or by a petition from the requisite number of voters to the Oireachtas. By s. 49, within six weeks of such a demand or petition the Minister of Local Government proclaims a date for the referendum, not less than seven or more than twenty-one days from the date of the proclamation. The votes are recorded in the same constituencies as for a general election, and the result communicated by the Returning Officer to the Clerk of the Dail. The Bill in respect of which the referendum has been demanded is made available for public inspection by the Returning Officer in accordance with rules set out in the seventh schedule of the Act. The form of question put on the referendum voting paper is, "Do you agree to the Bill passed by Dail Eireann dated the . . . day of . . . and entitled . . . ?"

Parts VI and VII deal with the membership of and qualifications for membership of the Dail and Seanad respectively. There are 153 members of the Dail (s. 50) representing thirty constituencies, which have from nine to three members each. Each member is officially called in the house "Deputy" and is described as *Teachtar Dail*, the letters "T.D." taking the place of the well-known "M.P." of the British Parliament. By s. 51 every citizen of age, without distinction of sex, is

eligible for election, unless disqualified by undergoing imprisonment, being of unsound mind, bankruptcy or conviction of corrupt practices. By s. 52 a member can resign by notice in writing to the Ceann Chomhairle (Speaker) of the Dail, who shall, as soon as directed by the Dail, order a new writ for election to be issued by the Clerk of the Dail. By s. 57 the limit of age for membership of the Seanad is raised to thirty-five; otherwise the conditions of qualification are the same as for the Dail. No member of the Defence Forces of Saorstát, or of the Police Force, or of the Civil Service can be a member of either body unless, in the case of a civil servant, he is by the terms of employment expressly permitted to be such.

Ancillary to the last-mentioned Act it became necessary to amend, consolidate and adjust to the new conditions the law relating to the Prevention of Corrupt and Illegal Practices and other abuses at elections. This was done by the Prevention of Electoral Abuses Act, No. 38 (1923). By Part I, ss. 1–10, the corrupt practices of bribery, personation, treating and undue influence, aiding and abetting personation, publishing false statements of withdrawal of a candidate, are defined anew and penalties imposed for them as offences. Under Part II (ss. 8–21) illegal practices are defined, and made penal on the same lines as in the British Acts, and Part IV provides for similar excuses and exceptions being within the jurisdiction of the High Court.

Part III contains, *inter alia*, the provisions as to the application of the law as to corrupt and illegal practices to a referendum. By s. 23, whenever a referendum is demanded under Art. 46 of the Constitution, Dail Eireann may appoint a person to be sponsor for the Bill, and if it is demanded by a resolution of the Seanad, they may appoint a challenger of the Bill. If it is demanded by petition the members of the Dail or Seanad upon whose demand the Bill is suspended may appoint a challenger. This having been done the law as to elections in No. 12 (1923), and of this Act as to corrupt and illegal practices, shall apply to the sponsor and challenger and their agents.

Part V controls the expenses, return and declaration in reference to a Dail election, and Part VI provides for the appointment, rights, duties, and powers of election agents at a Seanad election (ss. 41 and 42). The provisions in reference thereto in connexion to a Dail election apply. Part VIII, which contains the miscellaneous provisions, provides for inquiries by the Attorney-General into illegal or corrupt practices (s. 44), removal of incapacity or disqualification on its being proved that it was procured by perjury (s. 45), conditions on which employers may give leave of absence to employees to vote (s. 49); free postage for Dail candidates (s. 50); election petitions in reference to Seanad elections (s. 51); prosecutions and penalties (ss. 46, 47, 52, 53 and 54).

Upon the establishment of the Saorstát by the Constitution on December 6, 1922, it is a matter of history that there was much unrest in the country and agitation in certain districts against the Government, fomented by terrorism, outrage and intimidation. This became more acute until finally it reached the stage of armed rebellion, continuing into the summer of 1923, followed by still further unrest for another year. During these periods it was considered that free elections could not be held in the country. The first election for local bodies was due under the existing statutes to be held in January 1923, but, for the above reasons, as well as the non-completion of the register of local govern-

ment electors, the Local Elections Postponement Act, No. 4 (1922), was passed, postponing such elections to a date not later than January 1, 1924, as the Minister of Local Government may prescribe, and extending (s. 2) the term of office of existing councillors. Owing to the continued unrest, Act No. 48 (1923) extended the date from January 1, 1924, until September 30, 1924, and this was further extended by Act No. 39 (1924) until March 31, 1925.

Intoxicating Liquor.—For some time there has been in the Saorstát a decided movement in favour of more restrictive legislation as to the sale of intoxicating liquor. This was first given effect to in the Intoxicating Liquor Act, No. 28 (1924), which extended the prohibited hours by limiting sale between 9 a.m. and 9.30 p.m. In theatres, music-halls or places of public amusement no liquor could be sold save between half an hour before the commencement and half an hour after the end of the performance, or at any time after 10 p.m. By s. 5 the sale in clubs was restricted to the period between 9 a.m. and 10.30 p.m. By s. 2 a district justice was given power, in the interests of public peace and order, to close all licensed premises in a town or village for a day or part of a day. Later in the same year a general act to amend the law as to prohibited hours, licences and clubs was passed, entitled the Intoxicating Liquor (General) Act, No. 62 (1924). By s. 1 the evening hour is extended until 10 p.m., save on Saturday, which still remains 9.30 p.m. By subs. 3, Christmas Day, Good Friday, and St. Patrick's Day are made " dry " and no intoxicating liquor can be sold thereon, nor licensed premises keep open, with the sole exception that a person lodging in an hotel can have intoxicating liquor with a meal. No person is admitted to a theatre or music-hall bar after 9.30 p.m., unless he has a seat already paid for, in the house, for the performance then in progress (s. 4). By s. 5 even the famous " *bona fide* traveller " is deprived of the right to purchase intoxicating liquor between 7 a.m. and 1 p.m., on any Sunday, or at any time on Christmas Day or Good Friday. By s. 3 early closing licensed houses (under the Act of 1874) had to close an hour earlier than the new statutory hours.

Under Part II, dealing with licences, the most important provision is that contained in s. 7 (3), which forfeits the licence on a second conviction for an offence as to the sale of liquor without licence. By s. 8 sales cannot be made on credit, and, if sold in bottles, must be in such, of a size regulated by Order of the Minister of Justice (s. 9). By ss. 10 and 11 sales to young persons under eighteen are prohibited, and the employment of young persons is strictly limited by s. 12. In addition to the forfeiture of a licence which may be suffered under s. 7 (3), s. 18 contains a general provision that three convictions recorded on the licence shall cause a forfeiture thereof. But an appeal may be taken to the High Court, for remission on grounds stated, namely, the nature of the offences and the character of the applicant. The recording of convictions is enacted by s. 16, which takes it out of the discretion of the justice and directs that certain convictions shall be recorded on the licence. Part III further restricts the hours of sale in clubs, and in s. 20 provides that on weekdays save Saturday the hours shall be 9 a.m. until 10 p.m., on Saturdays the evening limit is 9.30 p.m., and on Sunday the hours are from 1 p.m. until 10 p.m. Ss. 24 and 25 give the police increased powers of searching clubs and opposing licences being granted to them. Part IV deals with illicit distillation. S. 29 makes the drinking of

methylated spirit an offence, and s. 25 imposes severe restrictions on its sale.

Civil Service.—The Civil Service in the Saorstát is now governed by the provisions of two Acts, the Civil Service Regulation Act, No. 35 (1923), a temporary Act enacted for six months, and the Civil Service Regulation Act, No. 5 (1925), which made permanent the provisions of the Act of 1923. By s. 1 (each Act is similarly numbered) the Executive Council were empowered to appoint a Board of Civil Service Commissioners, in number three, to hold office during the pleasure of the Executive Council. By s. 3 the duties of the Commission were to inquire into the qualifications of every person proposed to be appointed to permanent employment in the Civil Service. No person can be appointed without a certificate of qualification of the Commissioners, that he has the requisite knowledge and ability for the discharge of his duties. By s. 4 all appointments are to be made by competitive examinations, subject to certain exceptions set out in s. 6, which gave rise to much criticism. By this section if the Minister of Finance and the Minister in charge of any Department are of opinion that the qualifications for any office in that department are professional or peculiar and have been acquired in other pursuits by a person they propose to appoint, or if they think it is in the public interest that the Commissioners' regulations as to age or examination should be dispensed with, the Commissioners may, if they think fit, grant their certificate of qualification to a person so recommended. By s. 8 the Commissioners are to hold examinations for Army and Police and, if required, those for situations in the service of any local bodies. By s. 9 the Minister of Finance has control of all classification, remuneration and conditions of service of the Civil Service, with power of revocation and variation.

Agricultural Produce (Eggs and Butter).—For the purpose of maintaining a high standard in the principal export trades of the Saorstát, two important Acts were passed in 1924, the Agricultural Produce (Eggs) Act, No. 35 (1924), and the Dairy Produce Act, No. 58 (1924).

By Part II of the Eggs Act, s. 7, two Government registers were to be initiated and kept, one a Register of Exporters and the other a Register of Preservers. " Exporters " are defined as those carrying on the business of testing, grading and packing eggs for export. " Preservers " are defined as those carrying on the business of storing, pickling or otherwise preserving eggs. No premises can be registered for export unless they shall be structurally suitable, kept in a state of cleanliness and repair, contain adequate accommodation for requirements of the business for twenty-eight days, are properly equipped with prescribed appliances and requisites for the work, and do a business not less than a prescribed minimum. The licence to export eggs is given under s. 5 for each consignment. Part I lays down the conditions on which eggs may be exported, in amounts exceeding the maximum amount consignable by parcel post. The eggs under s. 3 must be tested, graded and packed in conformity with the regulations of the Act on premises of registered exporters ; they must remain in the packages in which so packed ; they must be clean and fit for human consumption ; and they must be exported direct from the registered premises. Any unauthorized exportation or any breach of the provisions of the Act or regulation is an offence punishable by fine or imprisonment. By s. 4 full powers of inspection are given to the officials of the Department of Lands and

Agriculture and to the Officers of Customs and Excise. In Part III of the Act the sale of dirty or unfit eggs is made a special offence (s. 18).

The Dairy Produce Act, No. 58 (1924) was passed to obtain a similar high standard of care and product in the export of butter. By Part III of this Act all classes of premises used in the butter industry must be registered under the department, viz. creameries, cream-separating stations, manufacturing exporters, butter factories and non-manufacturing exporters. A separate register is kept for each, and under s. 15 each of these respective classes of premises must be equipped with efficient plant as specified by the Minister; provided with an adequate supply of pure water; equipped with pasteurizing plant; and must produce daily a quantity of butter or cream, as the case may be, not less than a specified amount, 56 lbs., save that cream-separators must produce daily sufficient cream to produce 28 lbs. of butter. Part I imposes very stringent conditions (s. 3) as to the cleanliness and order to be maintained on all premises on which dairy produce is manufactured for sale, whether registered or not. If registered they come also under the provisions of Part III. Full powers of inspection are given under ss. 4 and 7. The conditions of export are controlled by Part II of the Act. Butter can be exported only from premises registered under the Act; must be clean, packed in conformity with the provisions of the regulations of the Act, and be marked with the statutory or National Mark. In no case can it contain more than 16 per cent. of water. Amounts consignable by parcel post are excluded from these conditions. Under s. 11 the Minister may make orders for the examination of butter before export by officers of the Department. A licence to export is, as in the case of eggs, given in respect of each consignment to the consignor. Part IV of the Act deals with the National Mark for butter. The Minister is empowered to register a trade mark or design and to grant licences for the use thereof in respect of butter of an approved government standard manufactured under approved conditions and in premises authorized to use this National Mark. In Part V, ss. 39 and 41, the sale of unclean milk or cream, or dirty butter by any person is made an offence punishable by fine.

The Seed Supply Act, No. 55 (1924) validates the provision of seed potatoes and seed oats by County Councils in the year 1924 and in certain rural districts in 1922 and makes provision for the payment and recovery of the moneys in relation thereto.

Landlord and Tenant.—The Increase of Rent and Mortgage Interest (Restriction) Act, No. 19 (1923), corresponds in substance to the British Act with the same title, 10 & 11 Geo. V, c. 17.

Housing (Building Facilities).—Act No. 14 (1924) was to enable the Minister of Local Government, with the consent of the Minister of Finance, to make grants in aid for the erection or reconstruction of houses (s. 2). The aggregate amounts of the grants was not to exceed £250,000 for erection of houses and £50,000 in respect of reconstructed houses. The class of houses was small houses, having a number of rooms not exceeding five and of a specified cubic capacity. The maximum grant to be issued in respect of each is fixed by the schedule, according to size; and the schedule of fixed rent for same does not exceed £36 per annum. These houses were to be erected or reconstructed within eighteen months of the passing of the Act.

National Health Insurance.—Many British Approved Societies under

the National Health Insurance Acts, 1911–18, had members in the Saorstát; and it became necessary, by reason of there being a separate establishment in each country, to make transitional provisions in reference thereto. By Act No. 20 (1923), s. 2 all Irish members of any British society were constituted into a Provisional Approved Society. By s. 3, where a British society had Irish branches these branches were to be deemed to have become branches of a Provisional Irish Society. Irish societies that had members in Great Britain were bound to transfer all documents and accounts in reference thereto to the Irish Insurance Commissioners. S. 5 enables the Commissioners to constitute the Provisional Irish Societies as Approved Societies or to transfer the members to other societies. Provisions are also made by ss. 6 and 7 for the mutual transfer of funds to and from Irish societies and British societies. Under s. 14 a special Insurance Fund is constituted of the Military Forces (by virtue of an international agreement) and it is deemed to be an Approved Society for members of the British Navy or Army Insurance Fund resident in the Saorstát, as well as British members of such fund, serving in the armed forces of the Saorstát, who were members of Irish or British Approved Societies.

Old Age Pensions.—By Act No. 19 (1924) the pensions payable under the schedule of the British Act (9 & 10 Geo. V, c. 102) at the maximum rate per week of 10*s*., which still applied to Ireland, are reduced by 1*s*. per week under ss. 2 and 3. Provisions are also made for the review of all pensions with a view to permanent reduction, and s. 5 amends the method of calculating the means of the pensioner upon which the pension was graded. In many cases old persons, owners of farms, in order to qualify for the pension, made transfers of their lands to members of the family. S. 7 puts a limitation to this procedure by enacting that such a transfer, if made within three years of the application for the pension, must have been made *bona fide* and for valuable consideration.

Unemployment Insurance.—Three Acts, Nos. 17 (1923), 26 (1924) and 59 (1924), were passed to amend certain provisions of the principal Act of 1920 (British) as to the duration of the benefit years mentioned therein and to bring the members of the military forces of the Saorstát within its provisions.

Gaming.—The Gaming Act, No. 50 (1923), corresponds to the British Act of 1922 (c. 9).[1]

Censorship of Films.—A Government Censor of Films is established by the Films (Censorship) Act, No. 23 (1923).

Miscellaneous.—The Interpretation Act, No. 46 (1923), the Annual Expiring Laws Continuance Acts, Nos. 5 (1922), 47 (1923), and 60 (1924) are for the same purpose as the corresponding British Acts. The same remark applies to the Summer Time Acts, Nos. 13 (1923) and 12 (1924).

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 10.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

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1920.

The fourth session of the thirteenth Parliament opened on February 26 and closed on July 1, 1920. Seventy-three Public Bills and one hundred and thirty Private Bills were passed. The Private Bills included one hundred Divorce Bills.

Grand Trunk Railway.—C. 13 of this session was to confirm an agreement dated March 8, 1920, for the acquisition of the capital stock of the Grand Trunk Railway Company of Canada, except the 4 per cent. guaranteed stock. This Bill was introduced primarily to correct certain errors in the list of companies subject to the Grand Trunk Railway Acquisition Act, c. 17 of the statutes of 1919, second session, and the Government desired as soon as possible to complete the agreement, appoint the arbitrators and proceed with the arbitration. The agreement as corrected is confirmed, and forms the Schedule to the Act. It had been approved and ratified at a meeting of the Company held in London, February 19, 1920.

City of Ottawa.—By c. 15 a new agreement is made with the capital city of Ottawa, providing that in consideration of the annual payment of $75,000 for five years, and of the grant to the Ottawa Improvement Commission of $150,000 a year for ten years and fixed prices for water supplied, the corporation agree to accept the $75,000 per year as in full payment, satisfaction and discharge of all claims and demands in respect of water supplied for street sprinkling, for fire protection to all buildings owned or occupied by the Government and for use in the various parks.

Dominion Elections.—C. 46 is the amended and consolidated Dominion Elections Act. By this Act the office of the Clerk of the Crown in Chancery is abolished, and a Chief Electoral Officer is substituted with all the powers of the Clerk of the Crown in Chancery and in addition properly to direct all returning officers and recommend removals and other appointments; to exercise general direction and supervision over the administrative conduct of elections; to report to the House of Commons, through the Speaker, after an election, all matters which ought, in his judgment, to be submitted to the House of Commons; and to act as counsel for the Crown or the Attorney-General in such causes, prepare opinions, and make such inquiries as the Governor in Council may direct.

The objects of the Act were to provide a uniform franchise, a uniform method for the preparation of voters' lists, and uniform election machinery. The war had created extraordinary conditions, and the War-time Elections Act and the Military Voters Act were passed in 1917 to meet the situation. The termination of the war made it necessary to amend and consolidate the law, and to pass an Act so designed as to have general operation without, or almost without, any special limitations or exceptions. Provincial voters' lists were adopted, provided they were not more than a year old and opportunity given to make those lists conform

to Dominion franchise requirements. Womanhood suffrage is maintained. The Government appoints the returning officers under the provisions of this Act.

Naturalization.—C. 59 is an Act to revive and amend the Naturalization Act, 1914. The object of this Act was to bring the legislation into proper form, so that there would be no difficulty about the concurrence of Canadian legislation with the British legislation. It is an incident of endeavouring to carry on concurrent legislation that each of the Parliaments has to deal with the matters which have formed the subject of previous consultation. The British Government has concurred in this legislation. This Act contains a new paragraph to the effect that a naturalization certificate shall be revoked in any case in which the Governor in Council is satisfied, upon the report of the Secretary of State of Canada, that the person to whom the certificate was granted has, within five years from the date of the grant of the certificate, been sentenced by any Court in His Majesty's dominions to imprisonment for a term of not less than twelve months, or to a term of penal servitude, or to a fine of not less than five hundred dollars. The Naturalization Act of 1919 is repealed, the Act of 1914 is revived as amended, and amendments in future will be legislation concurrent with that of Great Britain and the other dominions.

Salaries.—By c. 69 the Salaries Act, and the Senate and House of Commons Act, are amended to increase the salary of the First Minister to $15,000 per annum, and of each of the other seventeen Ministers to $10,000 per annum. The salary of the Solicitor-General is increased to $7,000 per annum. The Speaker of the Senate and the Speaker of the House of Commons will in future receive salaries of $6,000 per annum, and the Deputy Speaker of the House of Commons $4,000 per annum. The member occupying the recognized position of Leader of the Opposition in the House of Commons will receive, in addition to his sessional allowance, an annual allowance of $10,000. Each member of the Senate and of the House will be paid a sessional allowance of $4,000. A member must attend on at least three-fourths of the days on which the House sits, otherwise his allowance is $25 for each day's attendance.

In this session some of the more important Public Acts, outside of those above mentioned, were the Food and Drugs Act, 1920; the Act to amend the Canada Shipping Act (Sick and Distressed Mariners); the Feeding Stuffs Act; and the Act to provide for the Retirement of certain members of the Public Service.

1921.

The fifth session of the Thirteenth Parliament of Canada was opened on February 14, and was closed on June 4, 1921. Fifty-four Public Bills and one hundred and forty-four Private Bills were passed. The Private Bills included one hundred and twenty-one Divorce Bills.

Canadian Nationals.—C. 4 is an Act to define Canadian Nationals, and to provide for the renunciation of Canadian nationality. Under this Act the following persons are Canadian Nationals: (*a*) any British subject who is a Canadian citizen within the meaning of the Immigration Act, c. 27 of the Statutes of 1910; (*b*) the wife of any such citizen; (*c*) any person born out of Canada, whose father was a Canadian National at the time of that person's birth, or, with regard to persons born before the passing of the Act, any person whose father at the time of such

birth possessed all the qualifications of a Canadian National as above defined.

The Immigration Act of 1910 defines a Canadian citizen as: (1) a person born in Canada who has not become an alien; (2) a British subject who has Canadian domicile; (3) a person naturalized under the laws of Canada who has not subsequently become an alien or lost Canadian domicile; provided that for the purposes of the Immigration Act a woman who has not been landed in Canada shall not be held to have acquired Canadian citizenship by virtue of her husband being a Canadian citizen; neither shall a child who has not been landed in Canada be held to have acquired Canadian citizenship through its father or mother being a Canadian citizen.

As to renouncing Canadian nationality, it is provided that any person who by reason of his having been born in Canada is a Canadian National, but who at his birth or during his minority became, under the law of the United Kingdom or of any self-governing Dominion of the British Empire, a national also of that Kingdom or Dominion, and is still such a national, and any person who though born out of Canada is a Canadian National, may, if of full age and not under disability, make a declaration renouncing his Canadian nationality.

Grand Trunk Arbitration.—This Act, c. 9, was introduced, as the period of nine months stipulated in the agreement of March 8, 1920, for the making of the award of the arbitrators had elapsed, and it was desired to empower the Governor in Council to extend the time for the arbitrators' award. The Act carries into effect the decision of the Government not to extend the time of arbitration, except upon the terms of immediate possession and control. It provides that the directors of the Company and designated companies shall resign, and nominees of the Government be appointed who are vested with the powers of the Committee of Management under the agreement, and for a Grand Trunk Shareholders' Committee to carry on the arbitration proceedings. The Government stated that the total amounts advanced by the Dominion by way of assistance to the Grand Trunk and the Grand Trunk Pacific Companies, inclusive of interest unpaid, amounted in the case of the Grand Trunk to $77,297,000, of which all but $15,000,000 was due, and in the case of the Grand Trunk Pacific to $62,400,000, of which the entire amount was due. The Government had as well guaranteed obligations of the Grand Trunk to the extent of $25,000,000. Ample time had been given to secure the consideration of the shareholders on the question of possession, but they distinctly refused to meet and decide upon the Government's request. By the Act the Government provided that the shareholders should not be finally denied the reconstitution of the arbitration board until an opportunity was given to meet the conditions required. In the opinion of the Government the present position of the shareholders was due to the unsoundness of enterprises into which they themselves deliberately entered.

Copyright.—C. 24 is the Copyright Act which had been before the House during the two previous sessions, and its object was to make the Canadian law conform to the provisions of the Berne Convention and similar existing laws in other countries. A large part of this Act is a reproduction of the British Copyright Act of 1911, and in the other Dominions legislation has been enacted following the example of Great Britain. Copyright in Canada prior to 1921 had been governed partly

by Imperial Acts of 1842 and 1886 and by a Canadian Act of 1889. In the Imperial Act of 1911 it was especially provided that it should extend only to the self-governing Dominions whose Parliament declared it to be in force, and power was expressly given to repeal the British legislation so far as it was in operation in any Dominion. Representations were made to the Government of Canada pressing for her adherence to the amended Convention of Berne. There was considerable controversy over this Bill before Parliament between the authors on the one side, demanding an absolute right of control of the reproducing of copies of their works, and the claim advanced from the other side, on behalf of publishers and printers in this country, for an assurance to them of an opportunity to participate in the production of the material part of the work. In the result a wide protection was given to the author, and the rights conferred upon the printers or publishers were modified. The Act provides that a licence to reproduce shall be either for a fixed period of time, five years, or for an edition or a number of editions of the work. As to royalty, the parties are to be heard by the Minister, who shall determine the royalty that ought to be paid. He is also empowered to determine the number of editions that are to be published and the term of years they are to run, any terms or conditions which the circumstances of the case may demonstrate to be necessary to be inserted in the licence, and to which the licensee shall be subject. As a matter of fact the licensing clauses of the Canadian Copyright Act are practically inoperative.

Another matter which gave rise to a good deal of discussion and difference of opinion had to do with phonographic discs and the rights of the author. It applies mostly to musical publications, and to the right of the author when copies of his work are made by means of the production of discs to be used in phonographs and other mechanical contrivances whereby songs are reproduced. Having in mind that the rate of royalty in the United States consists of a fixed rate of two cents on each disc, the Canadian provision has been made the same.

The Governor in Council was authorized to take such action as might be necessary to secure the adherence of Canada to the revised Convention of Berne, 1908, and the Additional Protocol thereto, of 1914, set out in the second schedule. The Act was to come into force on a day to be fixed by proclamation, and by the amendment of 1923 the Act came into operation on January 1, 1924.

Permanent Court of International Justice.—C. 46 is an Act to authorize the ratification and carrying into effect of the Protocol of the sixteenth day of December, 1920, accepting the Statute for the Permanent Court of International Justice of the thirteenth day of December, 1920. Power was given to the Governor in Council to advise that His Majesty be humbly moved to ratify on behalf of Canada the said Protocol in the manner thereby stipulated, and the Governor in Council was authorized to do everything necessary to carry the Protocol into effect.

Other Acts of importance passed during this session embraced the French Trade Agreement and the West Indian Trade Agreement; the Bankruptcy Act Amendment Act; and the Act to amend the Patent Act.

1922.

The first session of the fourteenth Parliament opened on March 8 and closed on June 28, 1922. Fifty-three Public Bills and one hundred and twenty-eight Private Bills were passed. The Private Bills included one hundred and two Divorce Bills.

Air Board.—By c. 6 the Air Board Act, of 1919, c. 11, was amended to provide that the Governor in Council may prescribe compensation payable for death or injury directly resulting from a flight undertaken in the course of duty in the public service of Canada or employed under the direction of any department of the public service of Canada.

Canada Temperance.—C. 11 adds provisions to the Canada Temperance Act, in pursuance of the policy of passing ancillary legislation or legislation to help to carry into effect local laws enacted by the provinces. It enacts that upon receipt by the Secretary of State of Canada of a duly certified copy of an order in council passed by the Lieutenant-Governor in Council of any province in which the importation of intoxicating liquors into the province has been prohibited under the provisions of the Canada Temperance Act and in which such prohibition is still in force, requesting that the keeping of intoxicating liquor in such province for export, and the exportation of intoxicating liquor therefrom by persons licensed by the Government of Canada, be forbidden, the Governor in Council may by order in council declare that such prohibition shall come into force in such province on a day to be named in such order. It goes on to provide that upon such prohibition coming into force, no person other than a licensed brewer or distiller shall have or keep intoxicating liquor for sale or export, nor shall he export liquor out of such province. Only common carriers may carry or transport intoxicating liquor through such province. Provision is made for search warrants and the forfeiture of liquor and receptacles.

Transmission of Stocks and Bonds.—By c. 15, to amend the Consolidated Revenue and Audit Act, authority is given to the Minister or officer in charge of the registry to transfer ownership of Dominion stock, bonds, debentures and securities registered in the name of a deceased owner dying domiciled abroad, by the production of any authenticated copy of the probate of the will or letters of administration or letters of verification of heirship, or of the act of curatorship or tutorship, granted by any Court in Canada having power to grant the same, or by any Court or authority in England, Wales, Ireland or any British colony, or of any testament, testamentary or testament *dative expede* in Scotland. An authentic notarial copy of the will, if such will is in notarial form according to the law of Quebec, or, if the deceased owner died out of His Majesty's dominions, any authentic copy of the probate of his will or letters of administration or other document of like import, granted by any Court or authority having requisite power in such matters, will be sufficient.

Public Accounts.—The same c. 15 deals with the public accounts, and provides that all estimates submitted to Parliament shall be for the services coming in course of payment during the fiscal year, April 1 to March 31. Balances of appropriation which remain unexpended at the end of the fiscal year shall lapse and be written off, and balances of credits issued in respect thereof, against which no cheques have been drawn before the end of the fiscal year, shall lapse concurrently therewith. An order for a new credit may issue, terminable not more than two months after the end of the fiscal year for an amount not exceeding the

unexpended balance of any appropriation for certain specified purposes only, to be included in the accounts of the next following year. No order shall be made, however, if Parliament in the meantime has granted an appropriation.

Judges.—C. 29, an Act to amend the Judges Act, deals with the compulsory retirement of judges after inquiry. It provides that any judge of the Supreme Court of Canada or of the Exchequer Court of Canada, or of any superior Court in Canada, or any local judge in Admiralty, or any judge of a County Court, who is found by the Governor in Council, upon report of the Minister of Justice, to have become, by reason of age, or infirmity, incapacitated or disabled from the due execution of his office, shall cease to be paid or to receive or to be entitled to receive any further salary, if the facts respecting the incapacity or disability are first made the subject of inquiry and report by a commission to be appointed as provided, and the judge is given reasonable notice of the time and place of the inquiry and is afforded an opportunity by himself or his counsel of being heard thereat, and of cross-examination of witnesses and of adducing evidence in his own behalf. A judge found to be incapacitated or disabled by reason of age or infirmity, and who resigns his office, shall receive the annuity which he might have received if he had resigned at the time when he ceased to be entitled to receive any further salary. Leave of absence may be granted, with salary, by the Governor in Council, for such time as, in view of all the circumstances, is considered just or appropriate.

National Defence.—C. 34 of this session creates the Department of National Defence, by including the Militia, the Military, Naval and Air Services of Canada under the direction of one Minister of the Crown, who shall be the Minister of National Defence. All the powers, duties and functions vested in any Minister under the various statutes relating to the militia, the naval service and the air board, are in future to be administered, exercised and performed by or under the direction of the Minister of National Defence.

Other Acts passed at this session include the Fertilizers Act, to regulate the sale of Agricultural Fertilizers; the Bankruptcy Amendment Act; the Act to amend the Customs Act and the Department of Customs and Excise Act.

1923.

The second session of the fourteenth Parliament opened on January 31, and closed on June 30, 1923. Seventy-three Public Bills and one hundred and fifty-two Private Bills were passed. The Private Bills included one hundred and seventeen Divorce Bills.

Combines.—C. 9 is an Act to provide for the investigation of Combines, Monopolies, Trusts and Mergers. It has reference to such combines as have operated or are likely to operate to the detriment of or against the interest of the public, whether consumers, producers or others; and includes (1) mergers, trusts and monopolies so called, and (2) the relation resulting from the purchase, lease or other acquisition by any person of any control over or interest in the whole or any part of the business of any other person, and (3) any actual or tacit contract, agreement, arrangement or combination which has or is designed to have the effect of limiting facilities for transporting, producing, manufacturing, supplying, storing or dealing; or preventing, limiting or lessening manufacture or produc-

tion; or fixing a common price or a resale price, or a common rental, or common cost of storage or transportation; or enhancing the price, rental or cost of article, rental storage or transportation; or preventing or lessening competition in, or substantially controlling within any particular area or district or, generally, production, manufacture, purchase, barter, sale, storage, transportation, insurance or supply; or otherwise restraining or injuring trade or commerce.

A registrar is appointed with wide duties, especially to call for such returns, and to make such inquiries as he may consider necessary for a thorough examination into all matters brought to his attention by application for investigation. Any six persons, British subjects, resident in Canada, twenty-one years of age, may make application for investigation of the alleged combine. An inquiry is held and report made to the Minister. The Governor in Council may appoint commissioners to hold investigations, and may admit any article free of duty or reduce the duty thereon if satisfied as a result of the investigation that a combine exists at the expense of the public.

Copyright.—By c. 10 the Copyright Act of 1921 is amended to provide that the provisions regarding licences and importation shall not apply to any work the author of which is a British subject, other than a Canadian citizen, or the subject or citizen of a country which has adhered to the revised Berne Convention and the additional Protocol thereto.

Divorce Reports.—By c. 11 it is provided that the right of publication of reports of proceedings in Parliament shall not make it lawful to publish a report of any evidence taken or offered in any proceeding had before the Senate or the House of Commons, or any Committee of either House, upon any petition or Bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding was had, or contrary to any rule, order or practice of that House.

Marriage.—C. 19 is an Act to make lawful the marriage of a woman to her deceased husband's brother or such brother's son. It declares that a marriage is not invalid merely because the man is a brother of a deceased husband of the woman, or is a son of such brother.

Opium and Narcotic Drugs.—C. 22 is to prohibit the improper use of opium and other drugs. It is a consolidating Act, and gives the Minister power to issue licences to control the import, export, sale, manufacture and distribution of any drug, to name the ports of import and export, the manner of packing and marking for export, the records to be kept, and power to make all necessary regulations. Very severe penalties are imposed for infractions of the Act. Any person who unlawfully sells, gives away or distributes any drug to any minor shall be proceeded against by indictment and not summarily, and shall, at the discretion of the judge, be liable to whipping in addition to the other penalties provided. The whole Act is an effort to control and suppress the illicit trade in dangerous drugs which has reached dangerous proportions in Canada. The Courts have no power to impose less than the minimum penalties prescribed, and must, in all cases of conviction, impose both fine and imprisonment. No *certiorari* proceedings are allowed. Convicted aliens are subject to deportation. Any constable or penal officer who has reasonable cause to suspect that any drug is kept or concealed for any purpose contrary to the Act may search by day or night any place, vessel or vehicle for such drug, and magistrates may grant search warrants to search dwelling

houses either by day or night. The burden of proof is upon the person charged. Druggists and physicians, veterinary surgeons and dentists must furnish the Minister with such information as he may demand with respect to the drugs received, dispensed, prescribed, given away or distributed by them, and make a declaration in the prescribed form. A list of drugs is given in the schedule, and includes cocaine, morphine, heroin, codeine, opium, eucaine and *Cannabis Indica* (Indian Hemp) or hasheesh, and their various salts, compounds and derivatives.

Patents.—C. 23 is an Act to amend and consolidate the Acts relating to patents of invention. This Act had not been revised since 1903. Canada was about to become a party to the Berne Convention, and it was necessary to make the more important amended provisions relating to the manufacture and importation of patent inventions. A minor improvement is to transfer to the Patent Office the right to revive lapsed patents, which had required an Act of Parliament in each case. The Commissioner of Patents is charged with duties which are judicial in character and of great importance. Appeals to the Exchequer Court from his decisions are provided for. He exercises the powers conferred and performs the duties imposed upon him subject to the Minister, and in his absence or inability to act the Minister may appoint an officer to perform such duties. The Commissioner is given all the powers of a Commissioner under the *Inquiries Act*. Under the old Act public use or sale for more than one year in any part of the world prior to application for a patent is a bar. Under the new clause public use or sale is extended to two years. The new Act adds "process" in the list of inventions for which patents may be granted. Patents for processes are very numerous. It is also provided that an inventor who has taken out a patent in a foreign country may obtain a patent in Canada if the patent is applied for within one year from the earliest date on which an application was filed in any foreign country, or from the passing of this Act if no patent has been issued on a foreign application for the invention for more than one year. Where the application for the same invention has been previously filed in a foreign country which by treaty, convention or law affords similar privilege to citizens of Canada, an application made in Canada shall have the same effect as the same application would have if filed in Canada on the date on which the application for patent was first filed in such foreign country, provided the application in this country is filed within twelve months from the earliest date on which any such foreign application was filed, or from the passing of this Act. There is a limitation of two years after publication or public use and sale, as respects this last provision. In any case where the Commissioner refuses to grant a patent, he shall notify the applicant of the ground or reason therefor, and an appeal may be taken at any time within six months to the Exchequer Court, which has exclusive jurisdiction to hear and determine the appeal. Arbitration is provided for in the case of conflicting applications, but any one of the conflicting applicants may take the case into the Exchequer Court. Every patentee is required to satisfy the reasonable requirements of the public, and to that end adequately to manufacture the patented article or carry on the patented process within Canada. The Commissioner has power upon petition and hearings to grant an order to compel supply. Application for revocation of patent may be made at any time not less than three years after the date of the patent, and not less than one year after the passing of the Act,

and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in Canada an order for revocation may be passed. If satisfactory reasons are given the time may be extended not longer than twelve months. Any decision in these cases is also subject to an appeal to the Exchequer Court.

Banks and Banking.—C. 32 is the revision of the Bank Act made every ten years in Canada, to continue until July 1, 1933, the charters of the several banks to which the provisions of the Act apply; to authorize the payment out of Consolidated revenue fund of remuneration to auditors for special examinations of the affairs or business of banks which the Minister of Finance may require to be made; and to provide for the charge of fees in connexion with the registration of securities under the provisions of the Act While a system of government inspection was not adopted, the list of available auditors provided by the Banker's Association is confined strictly to chartered accountants; those who are to act as auditors for the shareholders must be chartered accountants, and must have practised their profession for a period of six years in a city or town in Canada where there is a head office of a bank. Every bank must have two auditors, chosen by the shareholders, but they shall not both be members of one firm, and they shall not be auditors for any one bank for more than three years in succession. The banks had a prior lien on goods as security in certain cases, and while this is not repealed, there is a provision inserted requiring notice by registration, and the assistant receiver-general is the registrar in each province. A clause is also introduced to the effect that a record shall be kept of every bank board meeting, showing what directors have attended meetings, and directing that before the next annual meeting is called upon to elect directors this record shall be placed in the hands of the shareholders. Another provision is that returns to the Minister shall include not only the property standing in the bank's name, but also the property which stands in the name of any corporation which they control. There is also a provision as to unauthorized persons receiving moneys on deposit or for transmission abroad making prescribed returns to the Minister, who may make inquiries and obtain reports, and order such business to be discontinued or security deposited as may be deemed in the public interest.

Chinese Immigration. — By c. 38 the immigration into Canada of persons of Chinese origin or descent is confined to the members of the diplomatic corps, or other government representatives, their suites and their servants, and consuls and consular agents; the children born in Canada of Chinese race or descent, who have left Canada for educational or other purposes, on substantiating their identity to the satisfaction of the controller at the port or place where they seek to enter on their return; merchants, as defined by such regulations as the Minister may prescribe; and students coming to Canada for the purpose of attendance, and while in actual attendance, at any Canadian university or college authorized by statute or charter to confer degrees; provided that no Chinese person purporting to be a merchant or student may enter Canada without a valid passport issued in and by the Government of China, and endorsed (*visé*) by a Canadian Immigration officer at the place where he was granted such passport or at the port or place of departure.

The head tax of $500 is abolished. It had proved to be ineffective. Only certain persons, as specified above, are allowed to enter Canada.

The Act makes no mention of the labour class, and to that extent the law is a complete exclusion of all labour coming from China. An officer is sent to the Orient, under the control of the Minister of Immigration, who will have to *visé* every passport before it will be accepted in Canada. The Government has adopted an effective method of restriction by undertaking to see that passports are viséd in China before the persons to whom the passports are given leave that country. With certain exceptions, no person of Chinese origin or descent is permitted to enter or land in Canada elsewhere than at the ports of Vancouver and Victoria. Among other Acts passed at this session were the French Convention and the Italian Convention, both trade agreements; the Northern Pacific Halibut Fishery Act; the Seeds Act; the Fruit Act; the Live Stock Act; and the Export Act.

1924.

The third session of the fourteenth Parliament opened on February 28 and closed on July 19, 1924. Seventy-five Public Bills and one hundred and fifty-nine Private Bills were passed. The Private Bills included one hundred and thirty Divorce Bills.

Northern Pacific Halibut Fishery Protection.—C. 4 is an amendment of the principal Act, passed in 1923 to give effect to the treaty with the United States of America, providing effective measures for the preservation of the halibut fishery of the Northern Pacific Ocean, signed at Washington, March 2, 1923. The principal Act provided a close season for halibut in the waters contiguous to the Pacific coast in the United States and Canada, and fishing therein during the close season was forbidden, except fish used by crews for food. Making use of Canadian ports to outfit vessels to engage in such prohibited fishing was forbidden, and the vessel, cargo and outfit were liable to seizure and forfeiture. An international Fisheries Commission was authorized to be appointed to continue for five years, to investigate the fisheries, to report to the respective governments, with recommendations as to the preservation and development of the fishery.

The amending Act of 1924 provides that Nationals or inhabitants of Canada or the United States, and ships registered therein or belonging to them, if engaged in or used in connexion with fishing for halibut in prohibited waters during the close season shall be liable to seizure. Canadian vessels, cargo and stores will be forfeited. United States Nationals or vessels must be delivered to United States officials. The section of the principal Act which authorized the seizure and forfeiture of foreign ships is repealed.

Bank Act.—C. 7 is an important amendment to the Bank Act passed in 1923. It repeals the section which empowered the Minister to order an examination by an auditor whom he might select, and authorizes the Governor in Council, on the recommendation of the Minister, to appoint an Inspector-General of Banks. He is provided with official and clerical assistants as may be required. He is directed, not less frequently than once in each calendar year, to make such examination into the affairs of each bank as he may deem necessary, and for such purpose to take charge on the premises of the assets of the bank or any portion thereof, if the need should arise, for the purpose of satisfying himself that the provisions of the Act having reference to the safety of the creditors and shareholders of each such bank are being duly observed,

and that the bank is in a sound financial condition. At the conclusion of his examination the Inspector shall report thereon to the Minister.

Whenever the Inspector is satisfied that a bank is insolvent, he shall report fully on the bank's condition to the Minister, and the Minister may, without waiting for the bank to suspend payments in specie or Dominion notes of any of its liabilities as they accrue, request the Bankers' Association or its President to appoint a curator to supervise the affairs of the bank, and such request shall have the same effect as if the bank had suspended payment, and a curator shall forthwith be appointed.

No loan or gratuity shall be made by any bank officer to the Inspector or his officers, either directly or indirectly. Secrecy is imposed upon the Inspector and his officers as to all information regarding banks which they obtain. It is further provided that there shall be no liability on the Government to any depositor, creditor or shareholder for damages, payment or compensation by reason of anything contained in these provisions or anything done or omitted to be done thereunder.

Canada Shipping.—C. 12 is an Act to amend the Canada Shipping Act to give effect to certain Draft Conventions adopted by the International Labour Conference of the League of Nations, adopted at Genoa, July 9, 1920, and at Geneva, November 11, 1921. These conventions deal with the minimum age for admission of children to employment at sea ; the payment of unemployment indemnity in case of loss or foundering of a ship ; the minimum age for the admission of young persons to employment as trimmers or stokers ; and the compulsory medical examination of children and young persons employed at sea.

The Act provides that no child under the age of fourteen years shall be employed on any ship other than vessels upon which only members of the same family are employed, or on school ships, or training ships approved and supervised by public authority. A list of all persons under eighteen shall be included in every agreement with the crew of a seagoing ship registered in Canada, and if there is no agreement the master shall keep a register of such young persons. No person under eighteen shall be employed as trimmer or stoker, except in a school or training ship, or a ship mainly propelled otherwise than by means of steam, and persons over sixteen found physically fit after medical examination may be employed on vessels exclusively engaged in the coastal trade of India and Japan. Where in any port a trimmer or stoker is required for any ship and no person over eighteen is available, two young persons over sixteen shall be employed to do the work. No young person shall be employed in any capacity except upon a certificate of a duly qualified medical practitioner, certifying that such young person is fit to be employed in that capacity. This provision does not apply to a ship in which only members of one family are employed, and where in case of urgency a young person is employed, such employment shall not extend beyond the first port of call ; but there must be a repetition of medical examination at intervals of not more than one year.

The Act also provides that if in the case of the loss or foundering of any vessel, the service of a seaman shall terminate before the date fixed in the agreement, he shall be paid unemployment indemnity for the days during which he remains in fact unemployed, for a period not exceeding two months. If the services of the seaman of any ship registered in any province terminates before the period contemplated in the agreement by reason of his being left on shore under a certificate

of unfitness or inability to proceed on the voyage, such seaman shall be entitled to wages for the time of service prior to the termination, but for no longer period.

Canadian National Railway.—In this session the Canadian National Railway Company was authorized by cc. 14 to 32, inclusive, to construct 19 branch lines of railway, mostly in the West. The Governor in Council is authorized to provide for the construction or completion of these lines prior to August 31, 1927.

Signatures to Government Securities.—The Consolidated Revenue and Audit Act is amended by c. 34 of this session to provide that Government debentures stock, annuities, exchequer bills or exchequer bonds, shall be signed by the Deputy Minister of Finance, or by some officer of the Department of Finance who shall be designated by the Governor in Council to sign on behalf of the Deputy Minister, and shall be countersigned by an officer of the Department of Finance designated by the Governor in Council. By direction of the Minister of Finance there may be substituted for signatures in the proper handwriting of one or both of the persons so authorized to sign, facsimiles thereof printed from engraving: provided, that if both of the signatures are so printed, the said signatures and a distinguishing device shall be printed from engraving on the said instrument after the same have been delivered by the printer and engraver to the Minister, and while they are in the custody and control of the officers of the Department of Finance.

Militia.—C. 57 is to amend the Militia Act in relation to calling out the active militia in aid of the civil power. It enacts that the Attorney-General of a province, upon receiving notification from a judge of a superior or county or district Court, having jurisdiction in the place concerned, that the services of the active militia are required in aid of the civil power, may, upon being satisfied that such services are so required, make a requisition whereby the district officer commanding is required to call out the active militia, or such portion thereof as he considers necessary, for the purpose of suppressing any actual or anticipated riot or disturbance. The permanent force is to be used so far as available, and recourse is had to other militia corps only to the extent that the permanent force is not available. The requisition shall contain an unconditional undertaking that the province shall pay to the Government of Canada all expenses and costs incurred by calling out the militia. In every case, the Attorney-General who makes the requisition shall, within seven days thereafter, cause an inquiry to be made into all the circumstances, and report to the Secretary of State.

All the expenses incurred in so calling out the militia shall be paid to Canada by the province of which the Attorney-General made the requisition, and the Government of Canada may retain from any annual grant payable by Canada to such province, and under the control of the Parliament of Canada, any unpaid balance of moneys due by such province to the Dominion under this provision. The expenses and costs incurred are to be advanced in the first instance out of the Consolidated Revenue of Canada, but shall be payable by and recoverable from the province to and by the Dominion as moneys paid by the latter to and for the use of the province at the request of the latter.

Representation.—The census of Canada is taken every ten years, as provided by s. 8 of the British North America Act, 1867, and the census of 1921 necessitated a readjustment of the representation in the House

of Commons, pursuant to the provisions of s. 51 of that Act. Quebec has a fixed number of 65 members. Each of the other provinces has such a number of members as will bear the same proportion to the number of its population (ascertained by the census) as the number 65 bears to the number of the population of Quebec (so ascertained).

By the Representation Act, 1924, c. 63, the House of Commons of Canada shall consist of 245 members, of whom 82 shall be elected for Ontario, 65 for Quebec, 14 for Nova Scotia, 11 for New Brunswick, 17 for Manitoba, 14 for British Columbia, 4 for Prince Edward Island, 21 for Saskatchewan, 16 for Alberta and one for the Yukon Territory.

The representation of the western provinces of Manitoba, Saskatchewan, Alberta and British Columbia is rapidly increasing, while that of the maritime provinces, Nova Scotia and New Brunswick, is decreasing.

Civil Service Superannuation.—C. 69 is an Act to provide for the superannuation of civil servants. It is based upon the recommendations in the report of the special committee appointed for the purpose of inquiring into the operation of the various Acts relating to the civil service of Canada, presented to the House on June 22, 1923. The Committee said: "The general principles on which modern superannuation schemes are based appear to be fairly definitely agreed upon. The basis most favoured is that under which both the employees and employer contribute to the support of the scheme, the entire cost as a rule being borne approximately by both." The benefits derived or provided for include allowances on retirement after attainment of a stipulated age; allowances to widows and minor children in the event of the death of the employee during service or after retirement, the widow's allowance being usually one-half of the employee's allowance; and allowances to the employees on retirement from disability, regardless of age. There is also usually provision made for the return of the employee's contributions without interest in the event of his voluntary retirement after a minimum period of service has been rendered.

In Canada there were two superannuation funds, dating from 1870 and 1893 respectively, and termed Superannuation Fund No. 1, and Superannuation Fund No. 2, the former embracing all the permanent civil servants appointed prior to 1893, and the latter all permanent civil servants appointed thereafter. But in 1898 both funds were closed to new entrants, the principle of superannuation was abolished so far as new entrants were concerned, and a Retirement Fund was substituted, composed of contributions from future entrants to the service of 5 per cent. of their salaries, to which the Government added interest at the rate of 4 per cent. The benefit from the Retirement Fund was the payment of a lump sum, but no provision was made for a retiring allowance, and there was no benefit to widows or children.

The new Act applies to whole-time permanent civil servants receiving an annual salary of $600 or over. The rate of contribution is 5 per cent. of the salaries, limited to the first thirty-five years of service. No contributor shall be retained beyond the age of seventy years, except in cases of peculiar efficiency and fitness, when the age limit may be extended to seventy-five. The superannuation allowance after ten years' service is one-fiftieth of the average salary for the last ten years, multiplied by the number of years of service, not exceeding thirty-five. This applies to new entrants. In the case of those already in the service the time is reduced to the average salary of the last five years. The

widow receives one-half the allowance of the contributor, until remarriage. Each child gets 10 per cent. until it reaches the age of eighteen, not exceeding $300 per annum. The total children's allowance is not to exceed the allowance to the widow, and the total allowance to the widow and children shall not exceed three-fourths of the allowance to which the contributor was entitled.

The retiring allowance after ten years' service, on disability or retirement from abolition of office, is computed on the same basis as the superannuation allowance. The withdrawal allowance on voluntary retirement is the total amount of contributions without interest. Persons now under the Retirement Act, or either Superannuation Fund, may, at their option, elect to come under the new Act, and provision is made for the computation and equalization of their contributions. It is believed that the cost of the benefits under the Act will be equally borne by the contributors and the Government.

Other measures passed at this session include the Research Council Act; the Belgian Trade Convention; the Act respecting the Revised Statutes of Canada, authorizing the revision now being prepared and printed; and Acts to amend the Companies Act and the Insurance Act.

2. ALBERTA.

[*Contributed by* JOHN D. HUNT, ESQ., *Clerk of the Executive Council.*]

The fourth session of the fifth Legislature of the Province of Alberta was opened by His Honour Lieutenant-Governor Brett, on Monday, January 28, and came to a close on Saturday, April 12, 1924.

Fifty-four Bills were introduced. Of eight Private Bills, seven were passed, and of forty-six Public Bills, forty became law.

Agricultural Department. — Last year the Minister of Agriculture was allowed an accountable advance not to exceed $100,000 at any one time to provide for the purchase of marketing of seed grain, or butter, or eggs and poultry.

The amount has now been increased by c. 20 to $250,000 and the object extended to provide for the purchase or marketing or grading of such seed grain, or butter and cream, or eggs and poultry, or cattle for feed and resale, as are entrusted to the Department of Agriculture as an agent for sale or are sold to it for resale, or are to be bought or sold in the ordinary administration of the Department.

Bee Diseases.—By c. 26 every keeper of bees shall notify the Minister of Agriculture of the fact within a month from the passing of this Act or from his beginning to keep bees. Inspectors are appointed in order to prevent the spread of foul brood or other infectious disease.

Municipal Hail Insurance.—C. 29 provides that the Hail Insurance District shall consist of all the municipal districts now existing, or hereafter formed in the Province.

Where in the preceding year not more than thirty-five persons apply for insurance from a municipal district, no representative shall be appointed by the council of that district for the current year.

Meetings of the representatives shall be called by the manager, who may also be secretary of the Board and 50 per cent. of the representatives entitled to attend the meeting shall constitute a quorum.

The remuneration of representatives attending meetings has been reduced from $8 to $6 per day.

No insurance shall be placed on crops upon lands subdivided into blocks and lots, except where so subdivided for greater convenience in carrying out agricultural or pastoral operations.

Every owner of patented land desiring insurance shall make application on the form prescribed to the secretary-treasurer of the municipal district in which the land described in the application is situated.

Insurance may be granted on Soldier Settlement Board lands, whether patented or not, if the signature of the Board agreeing to the tax is affixed to the application.

The maximum indemnity to be paid for total loss shall be six, eight, or ten dollars per acre as named in the original application or in an application for an increase, as the case may be.

No indemnity shall be paid in respect to any part of an insured crop (*a*) which has not been damaged to the extent of at least 5 per cent. of the value of such part; or (*b*) which has been so damaged by causes other than hail that in the opinion of the inspector the price likely to be obtained for the produce of such part would not exceed the actual cost of cutting, threshing and marketing of the same; (*c*) where the damage by hail has taken place after the crop has been cut.

Main Highways Loan.—By c. 30 the Government is authorized to raise by way of loan from time to time as may be necessary, not more than $3,500,000 for the construction or improvement of main highways.

Every such loan shall be repaid within fifteen years from its date, and such yearly or half-yearly sums shall be paid into a sinking fund as shall be deemed sufficient to discharge the loan at maturity.

One-half of the fees or other revenue collected under the Motor Vehicle Act, or the Vehicles Act, or such smaller fraction thereof as may be sufficient to meet the said yearly or half-yearly amounts to the sinking fund, shall be paid over to the Provincial Treasurer. In case of the said one-half of the fees or revenue proving insufficient, the balance shall be made up out of the general revenue fund.

University of Alberta Hospital. — In 1912 the Governors of the University leased to the City of Strathcona lands for the erection of a hospital.

The City of Edmonton, successors in title to the City of Strathcona, have agreed, subject to confirmation by the Legislature, to sell to the University the said hospital and all its property rights therein, and in the said lease, for debentures for $150,000 bearing interest at 5 per cent. per annum.

C. 27 confirms the sale, and the issue of the debentures.

The City agrees to pay the University 37½ cents per day for each in-patient of the hospital who is a resident of the City, such payment not to affect the liability of any such patient, if not an indigent, to pay for his treatment in the hospital. The words "indigent" and "resident" shall have the meaning as defined in the Hospitals Act.

Vital Statistics.—C. 28 provides that upon being satisfied that any illegitimate child born within the Province has been legitimated by the subsequent marriage of his parents, the Registrar-General shall register such child, whether dead or alive, as a lawful issue of such parents, and shall make a note in the space set apart for remarks in the prescribed form to the effect that the registration has been made under this Act.

Game.—By c. 22 the open season for grouse, partridge and prairie chicken is the whole month of October.

The open season for Hungarian partridge is from September 15 to November 15.

Irrigation Districts.—C. 32 provides that farm bridges across ditches provided by the Board shall be maintained by and at the expense of the owner.

Where the entry upon the assessment roll with respect to any parcel shows no acreage to be irrigated and it appears to the Board that any part can be irrigated, it may, upon complying with the provisions of the Irrigation Act in that regard, compute the acreage and have the same assessed, the person assessed to have the right of appeal.

Stallion Enrolment.—C. 23 is a new Act, the old one being repealed.

No person, partnership, firm or corporation shall stand, travel or offer for service within the Province of Alberta any grade stallion.

No person, partnership, firm or corporation shall stand, travel or offer for service in the Province any stallion or charge or receive service fees for any stallion, unless such stallion is pure bred and such stallion has been enrolled with the Minister of Agriculture under this Act, and a certificate of such enrolment has been issued in the form provided.

The Minister of Agriculture shall appoint inspectors who shall make a thorough inspection of stallions submitted for enrolment and report their findings to the Minister.

Every enrolled stallion shall until it is nine years of age be subject to inspection every three years. Upon evidence being forwarded to the Department that a horse enrolled as sound has become unsound, an official examination may be made and if unsoundness be established the certificate shall be returned and cancelled.

In the case of a pure-bred stallion recorded in the Canadian National Live Stock records, the Minister may accept as evidence of breeding and ownership a certificate of registration issued by the Canadian National Live Stock Records Board showing the applicant for enrolment under this Act to be the recorded owner and in the case of a pure-bred stallion not so recorded a certificate of registration of any Foreign Society recognized by the Canadian National Live Stock Records Board or the Minister.

The owner of every stallion standing or travelling for service shall make reports in form provided to the Department (*a*) on or before December 31 in each year of the number of mares served during that year; and (*b*) on or before May 31 in the following year of the number of mares that proved to be in foal.

The owner of any stallion siring a foal shall, until the foal reaches the age of two years, have without registration a lien on the foal for the amount of the fee unpaid in respect of the services of the mother of the foal.

The lien upon any foal shall be deemed to have arisen at the time of the service in respect of which it arises and during its currency shall have priority over all other claims or liens upon or rights in such foal howsoever arisen.

Government Liquor Control.—C. 14 provides for a Board of one, two or three members, known as the Alberta Liquor Control Board, which is given full power to buy, import, sell and control the possession, sale and delivery of liquors in accordance with the provisions of the Act. It may also determine the municipalities within which government liquor stores shall be established and the location of the stores within such municipalities; grant, refuse or cancel permits for the purchase of liquor; buy

or lease all plant and equipment and furnish and equip any building or land required for the operation of the Act.

It is also given power to appoint vendors and also officers, inspectors, clerks or other employees required, and to dismiss the same, fix their salaries, assign their titles and define their duties and powers.

The Board is given power to determine the nature, form and capacity of all packages to be used for containing liquor kept or sold under the Act; to grant and issue licences and to do all such things as are deemed necessary for the purpose of carrying into effect the provisions of the Act, or the regulations made thereunder.

The Government shall establish and maintain at Calgary and Edmonton and at such other places as are considered advisable "Government Liquor Stores" for the sale of liquor to be conducted by a "vendor," who may sell to the holder of a permit such liquor as he is entitled to purchase.

The vendor may sell liquor to any person upon the prescription of a physician, but not more than one sale and one delivery shall be made on any one prescription.

No sale or delivery of liquor shall be made, nor shall any store be opened for the sale of liquor (*a*) after the hour of eight o'clock p.m.; (*b*) on any holiday; (*c*) on any Dominion or Provincial election day; (*d*) on any municipal election day; (*e*) during such other period and on such other days as the Board may direct.

There shall be two classes of permits: (*a*) Government permits; (*b*) special permits.

A Government permit may be granted to a person of the full age of twenty-one years, who has resided in the Province for at least one month immediately preceding the date of his application entitling the applicant to purchase liquor under the terms of the permit and the provisions of the Act and regulations made thereunder. The fee to purchase spirits, wine, beer and malt liquor shall be $2, beer only $1, and a single purchase of any of these 50 cents.

A Government permit may be granted to a person of the full age of twenty-one years who is temporarily resident or sojourning in the Province, entitling the applicant during a period not exceeding one month to purchase liquor under the terms of the permit and the provisions of the Act and regulations made thereunder. For spirits, wine, beer or malt liquor the fee shall be $1 and a single purchase of any of these 50 cents.

A special permit in the prescribed form may be granted (*a*) to a druggist, physician, dentist or veterinarian or to a person engaged within the Province in mechanical or manufacturing business or in scientific pursuits requiring liquor for use therein; (*b*) to a minister of the Gospel entitling him to purchase wine for sacramental purposes only; (*c*) when authorized by the regulations entitling the applicant to purchase liquor for the purposes named in the permit; in accordance with the terms and provisions of such special permit and the provisions of the Act and regulations made thereunder, at such fee as shall be fixed and determined by regulation.

A club, meaning thereby any association of individuals for purposes of mutual entertainment and convenience, in operation on January 1, 1923, may be granted a licence to sell beer, the fee for which shall be for one hundred members or less $100, for 100 to 200 members $150, over

200 members $200. Golf and country clubs $100. No person shall be permitted to buy beer in a club unless he is a member and of the full age of twenty-one years.

No sale or other disposal of beer shall be made from or after the hour of nine o'clock p.m. Saturday until seven o'clock a.m. Monday; nor from and after the hour of ten o'clock at night until seven o'clock the following morning on other days of the week.

For a beer licence in respect of an hotel in cities having a population of 15,000 or over the fee shall be $400; in cities having a population of not less than 7,000 and not more than 15,000, $350. In cities, towns and villages of not less than 1,500 and not more than 7,000, $250; in other places, $200.

A brewer duly licensed by the Dominion of Canada may be licensed by the Board to make beer in Alberta on payment of a fee of $1,500; the licence to expire on December 31 of each year.

Any druggist may keep alcohol purchased under special permit to be used solely in compounding medicines or as a solvent or preservative.

Any person in charge of an institution regularly conducted as a hospital or sanatorium or as a home for aged people may, if he holds a special permit under the Act for the purpose, administer liquor purchased by him under his special permit to any patient or inmate of the institution who is in need of the same and may charge for the liquor so administered; but no liquor shall be administered except to *bona fide* patients or inmates of the institution and only in cases of actual need.

The manufacture, sale, purchase or consumption of any extract, essence or tincture or other preparation containing alcohol which is prepared according to a formula of the British Pharmacopœia or the United States Pharmacopœia or according to a formula approved by the Board or any proprietary or patent medicine prepared according to a formula approved of by the Board and in respect of which a licence has been granted to sell the same under the Proprietary and Patent Medicine Act of the Parliament of Canada, is not prohibited unless the Board is of the opinion that such preparation is being used or may be used for beverage purposes, in which case the Board may with the approval of the Lieutenant-Governor in Council prohibit the sale thereof, or the possession of the same for sale within the Province, except by a Government liquor store or by persons duly licensed by the Board to keep and sell the same.

After notice of such prohibition to the manufacturer or vendor of such preparation, any person selling or keeping for sale any such preparation shall be guilty of an offence against the Act, and the publication of a notice of such prohibition in the *Alberta Gazette* shall be conclusive evidence of any notification required under this section.

A Local Option Area composed of one or more municipalities or electoral divisions may be created by the Lieutenant-Governor in Council upon petition of not less than 25 per cent. of the names on the last revised assessment roll of a municipality or upon the last voters' list of an electoral division revised under the Alberta Election Act.

Upon the creation of a Local Option Area a plebiscite may be taken for or against local option. If the affirmative is carried then no beer licence nor club licence to sell beer shall be granted in the said area. If in any municipality a beer licence has been granted before the creation of

a Local Option Area no plebiscite shall be held within two years of the issue of the first beer licence in such municipality.

After the holding of a plebiscite, whether decided for or against local option, no further plebiscite shall be taken for two years.

No person within the Province of Alberta shall consume any liquor on any premises where liquor is kept for sale by a druggist, nor shall any druggist permit any liquor to be consumed on any such premises.

The holder of an individual permit may have in his possession and consume in his residence or in a private guest-room occupied by him in an hotel only the liquor acquired by him under his permit.

Except in the case of beer kept or consumed in premises for which a beer licence has been granted and which forms a part of an hotel, no person shall keep or consume liquor in any part of an hotel other than a private guest-room and no person shall keep or have any liquor in any room in an hotel unless he is a *bona fide* guest and is registered as an occupant of a room and has baggage and personal effects belonging to him in the hotel. Provided that there shall not be kept or had in any such room a greater quantity of liquor than one person is entitled to acquire at any one time under a permit.

Where it is made to appear to the satisfaction of any justice that any person by excessive drinking misspends, wastes, or lessens his estate or injures his health or endangers or interrupts the peace and happiness of his family, the justice may make an order of interdiction directing the cancellation of any permit held by such person, and prohibiting the sale of liquor to him until further order. Such order shall be filed with the Board by the justice and shall be subject to appeal to a District Court Judge. An order of interdiction may be revoked by a justice making it, and the party shall thereupon be restored to his full rights.

Any member or employee of the Board interested directly or indirectly in the liquor business in any way or who solicits or receives directly or indirectly any commission, remuneration or gift from any person or corporation having sold, selling or offering liquor for sale to the Government or any person selling or offering for sale to or purchasing liquor from the Government and offering directly or indirectly to pay any commission, profit or remuneration or make any gift to any member or employee of the Board or to any employee of the Government or to anyone on behalf of such member or employee, shall be liable on summary conviction to imprisonment with hard labour for not more than twelve months.

Any person supplying liquor illegally to an interdicted person shall be liable on summary conviction for a first offence to imprisonment with hard labour for not less than one month nor more than three months, and for a second or subsequent offence for not less than four months nor more than twelve months.

Any person who exposes or keeps for sale or directly or indirectly or upon any pretence sells or offers to sell, or in consideration of the purchase or transfer of any property or for any other consideration or at the time of the transfer of any property gives to any person any liquor, shall be liable on summary conviction for a first offence to a fine of not less than $100 nor more than $1,000 and costs, and in default of payment to imprisonment with hard labour for not more than three months or to imprisonment with hard labour for a term of not more than six months without the option of a fine. If such person is so convicted after a previous

conviction for an offence against any of the provisions of the Act he shall be liable to imprisonment with hard labour for a period of not less than three months nor more than six months without the option of a fine.

If the offender convicted is a corporation, it shall be liable to a penalty of not less than $1,000 nor more than $3,000.

Any person guilty of an offence against the Act for which no penalty has been specifically provided shall be liable upon summary conviction for a first offence to a penalty of not less than $20 nor more than $200 and in default of payment to imprisonment for not less than thirty days nor more than two months with or without hard labour; for a second offence to a penalty of not less than $200 nor more than $500, and in default of payment to imprisonment for not less than two months nor more than four months with or without hard labour or to imprisonment for not less than two months nor more than four months with or without hard labour, without the option of a fine; and for the third or subsequent offence to imprisonment for not less than three months nor more than six months with or without hard labour, without the option of a fine.

If the offender convicted is a corporation it shall for a first offence be liable to a penalty of not less than $1,000 nor more than $2,000 and for a second or subsequent offence to a penalty of not less than $2,000 nor more than $3,000, and the justice by his conviction may order and adjudge that in default of payment such penalty shall be levied by distress and sale of the goods and chattels of the corporation within the Province, and a copy of the conviction or order may be filed in the office of any clerk of the Supreme Court of Alberta and shall thereupon become a judgment of that Court and all proceedings may be taken and had as on any other judgment of that Court.

The burden of proving the right to have or keep or sell or give or purchase or consume liquor shall be on the person accused. The burden of proving that any prescription or administration of liquor is *bona fide* and for medical purposes only shall be upon the person who prescribes or administers such liquor or causes such liquor to be administered, and the justice trying the case shall have the right to draw inferences of fact from the frequency with which similar prescriptions are given and from the amount of liquor prescribed and from the circumstances under which it is prescribed or administered.

Elections.—C. 34 provides that not more than thirty nor less than twenty days shall elapse between the date of the writ and nomination day, with polling on the tenth day after nomination.

A by-election shall be held within 120 days of the vacancy and sooner, if necessary, to give the electoral division representation at the next session of the Legislature.

A returning officer must be a resident voter, and he is entitled to cast his vote as an elector.

Two months' residence in the electoral division is now required instead of three months' as in the old Act.

Polling hours in cities are from 9 a.m. to 7 p.m. and in other places from 9 a.m. to 6 p.m.

Employees are allowed from 4 to 6 p.m. to vote, without reductions from wages or salaries.

Disputed ballots and Courts of Inquiry are abolished.

The X vote is no longer to be used, and the voter shall mark his ballot by the figures 1, 2, 3, etc., according to his preferences.

Where one member is to be elected and more than two candidates go to the poll, the candidate who has received an absolute majority of the first preference votes cast shall be declared elected. If no candidate has received an absolute majority the returning officer shall proceed to a second count and exclude from the contest the candidate who received the least number of first preference votes and transfer those votes to the remaining candidates, as indicated by the second choices on the ballots, and so on, until a candidate secures an absolute majority of the ballots in the last count.

Where more than one member is to be elected and there are more candidates than there are members to be elected the ballots shall be counted under the Proportional Representation System as set out in the Act.

Slot Machines.—It is provided by c. 36 that no person shall keep or operate or permit to be kept or operated upon any premises or in any place, any slot machine.

No slot machine shall be capable of ownership and shall not be the subject of property rights within this Province, and no Court of Civil Jurisdiction shall recognize or give effect to any property rights in any slot machine.

Conditional Sales.—The amendment (c. 10) provides that nothing in the Act relating to registration shall apply to the sale or bailment of any manufactured goods or chattels of the value of $15 or over, which at the time of the actual delivery thereof to the buyer or bailee have the manufacturer's or vendor's name painted, printed or stamped thereon or plainly attached thereto by a plate or similar device.

Provided that such manufacturer or vendor or his agent within five days after receiving a request in writing from any person proposing to purchase the goods or chattels or from any actual or intending creditor of the buyer, or bailee, furnishes him with a statement of the amounts, if any, paid thereon and the balance remaining unpaid.

Any person removing or defacing, so as to be illegible, any name attached to any such manufactured goods, before payment or tender of the amount due in respect of such goods or performance of the conditions of the sale or bailment, shall be liable on summary conviction to a fine of not more than $500 and costs.

Insanity.—By an amendment (c. 25) the title of this Act is changed to The Mental Diseases Act and the word "asylum" is changed to "hospital" throughout the Act.

An addict shall mean any person addicted to the improper use of cocaine, opium or their derivatives and any other narcotic drug which for the time being is included in the schedule to the Opium and Narcotic Drug Act, 1923, of the Parliament of Canada.

The superintendent shall have power and authority (*a*) to admit to hospital and detain for examination and treatment such person as he may deem proper to be so admitted and detained; (*b*) to order the removal of any patient from any hospital to any other hospital; (*c*) to discharge any patient so detained, when in his opinion such patient no longer stands in need of treatment; (*d*) to permit any patient detained for treatment to leave upon probation, upon being satisfied that during such period the patient will be properly looked after by relatives or friends.

Any person resident in Alberta who is or is believed to be in need of treatment for mental diseases may be admitted to a hospital (*a*) by voluntary submission to treatment; (*b*) by medical certificate; (*c*) by warrant of the Attorney-General.

Any person who believes himself to be in need of treatment may voluntarily make application for admission and the superintendent may direct that such person be received and detained as a patient.

When two legally qualified medical practitioners issue their certificates that they have specially examined the patient named therein and that he should be confined in a hospital and such certificates have been submitted and approved by the superintendent, such person may, if it is so directed by a justice of the peace, be conveyed to a hospital without any further or other authority.

Every addict shall be deemed to be a person who is in need of treatment, such as is provided in a hospital, and the provisions of the Act relating to insane persons are made applicable to addicts.

Fire Department's Hours of Labour.—It is provided by c. 37 that where in any city, town or village there is a permanent fire department, the officers and employees of which are regularly employed and paid by the corporation, every such official and employee shall be off duty for one full day of twenty-four hours in every calendar week; but where what is known as the Double Platoon System is in operation the twenty-four hours' release at the change of platoons shall not be regarded as a day off.

In case of a conflagration for the control of which the attendance of all officers and employees is in the opinion of the fire chief or officer in charge necessary, he may require the attendance of all officers and employees during the continuance of the conflagration.

Fire Department's Two-platoon.—By c. 38 it is provided that where in any city or town of a population of not less than 10,000 there is a permanent fire department, the officers and employees of which are regularly employed as firemen and paid by the corporation, it shall be the duty of the chief, superintendent or commissioner, as the case may be, to divide the members into two platoons, who shall work according to one or the other of two systems, namely:

1. The said chief of a fire department shall not keep a platoon on duty for more than twenty-four consecutive hours, after which the platoon shall be allowed twenty-four consecutive hours off duty.

2. One platoon shall work day work of ten consecutive hours while the other platoon works night work of fourteen consecutive hours, each platoon to alternate every seventh day from night work to day work and *vice versa*.

Societies.—By c. 11 five or more persons may become incorporated under this Act for any benevolent, philanthropic, charitable, provident, scientific, artistic, literary, social, educational, agricultural, sporting or other useful purpose, but not for the purpose of carrying on any trade or business.

The society may by by-law provide by subscription of the members thereof with or without the aid of donations for—

(*a*) The relief or maintenance of the members or relatives or wards being orphans during sickness or other infirmity, whether bodily or mental in old age (which shall mean any age after fifty), or in widowhood or for the relief or maintenance of the orphan children of members during minority; or

(*b*) Insuring money to be paid on the birth of a member's child, or on the death of a member, or for the funeral expenses of the husband, wife or a child of a member, or of the widow of a deceased member ; or

(*c*) Relief or maintenance of the members when on travel in search of employment or when in distressed circumstances ; or

(*d*) The endowment of members or nominees of members of any age ; or

(*e*) The insurance against fire to any amount not exceeding $75 of the tools and implements of the trade or calling of the members ; or

(*f*) Guaranteeing the performance of their duties by officers and servants of the society or any branch thereof.

Provided that a society which contracts that any person for the assurance of an annuity exceeding $250 per annum, or of a gross sum exceeding $1,000, shall not be registered under this Act.

The society is given power to acquire and hold real estate and personal property and to sell, mortgage, lease, improve and develop the same and to erect and maintain any necessary buildings and to operate and secure the payment of money in such manner as it thinks fit and in particular by the issue of debentures for the purpose of carrying out its objects.

A society may draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable and transferable instruments.

Workmen's Compensation (Accident Fund).—By c. 33 " child " shall include an illegitimate child and any child of any child and the child of a husband or wife by a former marriage.

A contractor contracting for the performance of mining operations for another person engaged in the industry of mining shall not be deemed to be an employer, but such other person shall be deemed to be an employer of the said contractor if he is actually working, and of the workmen employed by him, and " workmen " shall include the said contractor and his employees.

" Medical aid " shall include the several matters and things, including all necessary drugs and dressings, which the Board is empowered by this Act to provide for injured workmen.

" Mine rescue and first aid work " shall include equipment necessary for such work, the repairs thereof, the training necessary for such work and the supplies used therein.

Where an accident causing injury to a workman in respect of which compensation is payable has occurred, and where in the opinion of the Board the accident was due entirely to the failure of the employer to comply with the directions of the Board, or with the regulations made under this Act, the Board may levy and collect from the employer a sum not exceeding one-half of the amount of the compensation payable in respect of the injury and not exceeding in any case $300.

Where in any case, in the opinion of the Board, it will be in the interests of the accident fund to provide a special surgical operation or other special medical treatment and the furnishing of the same by the Board affords the only means of avoiding heavy payment for permanent disability, the expenses of such operation or treatment shall be paid out of the accident fund.

Where in the case of any claim the Board is of the opinion that the injury would be alleviated by the supplying of any apparatus usually

provided in such cases, it shall supply the same and the cost thereof shall be paid out of the accident fund, but such action shall not affect the payment made to the workman.

Where death results from injury the amount of compensation shall be :

1. Where the dependents are a widow or invalid widower a monthly payment of $35, with an additional payment of $12 in respect of one child under sixteen years of age ; $10 in respect of the second child ; $9 in respect of the third ; and $8 in respect of each of all the other children.

2. Where the only dependents are children, the monthly payment shall be $15 to such children under the age of sixteen years.

Where a payment of any one of a number of dependents ceases the Board shall readjust the payments so that the remaining dependents shall receive the same compensation as though they had been the only dependents at the time of the death of the workman.

Where any person entitled to compensation is committed to jail or imprisonment, compensation shall not be payable to such person for the period of his confinement therein, but the Board may pay the whole or any part of his compensation to any dependent of the person committed.

Where any person entitled to any compensation is committed to any institution, the compensation payable to any such person may in the discretion of the Board be paid to the institution.

The compensation payable for permanent total disability is now 62½ per cent. of the average weekly earnings.

The compensation for permanent partial disability has been raised from 55 per cent. to 62½ per cent. of the difference between the average weekly earnings of a workman before and after the accident.

The Board may in respect of accidents after April 30, 1924, where the workman is seriously and permanently disfigured about the face or head or otherwise permanently injured recognize an impairment of earning capacity and may allow lump sums or periodical payments or both as compensation.

For temporary partial disability the payment has been raised from 55 per cent. to 62½ per cent. of the difference between the average weekly earnings before and after the injury.

To ascertain the average weekly earnings of a workman the Board may take into consideration any number of weeks during which the workman was employed by his employer previous to the accident.

If by reason of the shortness of time which the workman has been in the employment of his employer or the casual nature of the employment it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average earnings of a person in the same grade of employment.

The amount of compensation to which an injured person shall be entitled shall not exceed the rate of $1,140 per annum.

For the purpose of ascertaining the amount of compensation payable for permanent partial disability and temporary partial disability, average weekly earnings shall be computed in such a manner as is best calculated to give the rate per week at which the workman was paid, but not so as in any case to exceed $2,000 per annum.

The provisions of the Act dealing with minimum compensation for total disability are amended by adding thereto as follows :

Where the workman was at the date of the accident under twenty-one years of age and it is established to the satisfaction of the Board that under normal conditions his wages would probably increase, the fact shall be considered in arriving at his average earnings.

When the Board provides medical aid or undertakes to pay for medical aid already provided for any injured workman the amount payable shall be fixed by the Board and no action shall lie against the Board nor against the injured workman, his employer or any other person in respect of any amount greater than that fixed by it.

Every employer shall, upon the happening of an accident being brought to his attention or to that of his agent, provide immediate transportation to a hospital together with necessary attention upon the journey thereto, for all injured workmen in need of hospital treatment.

The physician or surgeon who attends an injured workman shall forward to the Board a report within five days after his first attendance and upon the first day of each month, and at such other times as may be required by the Board, progress reports and shall forward to the Board a final report within three days after the said workman is in his opinion able to resume work.

Farm Loan.—C. 4 takes the place of the old Alberta Farm Loan Act, which it repeals.

The Act provides for a Board, to be known as " The Alberta Farm Loan Board," which shall be a body corporate and whose members shall be known as " directors " and which shall consist of a chairman and two others, appointed by the Lieutenant-Governor in Council, and who shall receive such remuneration or expenses and perform such duties as may be determined by the said council.

The working capital of the Board shall be such moneys as may be raised by the issue of bonds guaranteed by the Province and such other moneys as may be appropriated for the purpose by the Legislative Assembly and such moneys as may otherwise become available under the operation of this or any other Act of the Province or the Dominion.

The Board may lend money secured by duly registered first mortgages on farm lands for a period of thirty years or thereabouts and which shall contain a covenant on the part of the farm loan association and the mortgagor, providing for the payment of thirty equal annual instalments or thereabouts sufficient to pay such amount as will extinguish the debt within the agreed period and which shall be in such form and contain such other terms and conditions as may be prescribed by the Board.

The rate of interest charged on loans shall be at least sufficient to pay the interest actually payable on moneys realized by the sale of the securities or otherwise by which the funds have been raised together with the cost of raising such moneys and the expenses of conducting the business, including the creation of a reserve fund.

No loan shall be granted for more than 50 per cent. of the appraised value of the land.

Any five or more persons may apply to the Farm Loan Board to be incorporated as a Farm Loan Association. No person shall be entitled to apply unless he is the registered owner of land or can show that he is about to become such an owner.

Co-operative Marketing Associations.—By c. 5 any ten or more persons resident in the Province who are engaged in the production of agricultural products, including tenants, and landlords who receive

share rentals, may form a co-operative association for the marketing of agricultural products through co-operation, either with or without a capital divided into shares by subscribing their names to a memorandum of association and articles of association in the presence of a witness who must attest the signature, and delivering said memorandum and articles to the Registrar of Joint Stock Companies, who shall retain and register them and certify that the association is incorporated.

From the date of the certificate the subscribers and such other persons as may become members shall be a body corporate capable of exercising all the functions of an incorporated company.

The Association may make marketing contracts requiring the members to sell for any period not over seven years all or any of their agricultural products specified in such contracts, exclusively to or through the Association.

The contract may provide that the Association shall pay over to the member the price for which the products or commodities are sold after deducting all necessary expenses, including interest on preference shares not exceeding 8 per cent. per annum, and proper reserves, and interest not exceeding 8 per cent. upon ordinary shares.

Alberta Co-operative Wheat Producers, Limited.—C. 7 validates and confirms the incorporation of the Wheat Pool under the Co-operative Associations Act of 1923 and declares the said corporation to have and to have had since that date the powers set forth in this Act and that certain agreements of the corporation be given effect to and validated.

The concerns and business of the corporation shall be managed by a Board, consisting of seven directors or more as may be fixed by the by-laws of the corporation.

The capital of the corporation shall continue to be unlimited in amount and shall continue to consist of shares of one dollar each or such other amount as shall be determined by the by-laws of the corporation.

No grain received by the corporation from any person or persons for sale nor the products of any such grain shall be liable to seizure or attachment by any creditor of the corporation except only for the purpose of or on account of any security held by any creditor who has lent money to the corporation or security of such grain or on documentary or other evidence of title to such grain.

Landlord's Rights (Bankruptcy).—It is provided by c. 12 that any lessee against whom or by whom a receiving order or assignment is made under the Bankruptcy Act of the Dominion of Canada shall be deemed to have made an assignment of all his property for the general benefit of his creditors prior to the date of such receiving order or assignment.

As soon as such order or assignment is made, then the landlord of such lessee shall not be entitled to distrain for his rent, but the trustee in whom the property of the lessee vests shall pay to the landlord in priority to all other debts an amount not exceeding in value the distrainable assets of the lessee and not exceeding three months' rent accrued due prior to the date of such order or assignment.

The lessee shall be a debtor to the landlord for all surplus rent in excess of the three months' which has accrued due and also for any accelerated rent not exceeding an amount equal to three months' rent.

The trustee shall pay to the landlord for the period during which he actually occupied the leased premises a rental calculated on the basis of the lease.

The trustee shall be entitled to continue in occupation of the leased premises for so long as he shall require the same for the purpose of the trust estate, and any payment to be made in respect of accelerated rent shall be credited against the amount payable by the trustee.

The trustee may surrender possession at any time, but if he occupies for three months or more, the landlord shall be entitled to receive three months' notice in writing of the trustee's intention to surrender possession, or three months' rent in lieu thereof.

The trustee may at any time while he is in occupation elect to retain the leased premises for the whole or any portion of the unexpired term and he may, upon payment to the landlord of all over-due rent, assign the lease to any person who will covenant to observe and perform its terms and who is approved by a judge of the Supreme Court as a fit and proper person to be put into possession; provided that before the person to whom the lease is assigned be permitted to go into occupation he shall deposit with the landlord six months' rent or give him a guarantee bond equal to six months' rent; and provided that this provision shall only apply to premises leased by a retail merchant, a wholesale merchant, a commission merchant, a manufacturer or any person who buys and sells goods, wares or merchandise.

Where the lessee has, before making an assignment, sublet any premises and the trustee disclaims or elects to assign the lease, a judge of the Supreme Court may, upon the application of such under-lessee, make an order vesting in him an equivalent interest in the property subject to the same liabilities and obligations as the lessee was subject to. The sub-lessee shall in such event be required to covenant to pay to the landlord a rental not less than that payable to the lessee.

Minimum Wage.—It is provided by c. 3, s. 13, that where by reason of the season of the year or otherwise it seems advisable, the Board may temporarily increase the working hours for any class of employees and determine the rate at which such overtime shall be remunerated and may temporarily increase the number of apprentices who may be employed.

Every employer who disobeys any order made by the Board other than an order establishing a minimum wage or hinders or prevents the entry of an inspector or contravenes any regulation, shall upon summary conviction be liable for a first offence to a penalty of not less than $20, nor more than $100 and costs; for a second offence to a penalty of not less than $75 nor more than $250 and costs; for a third offence to a penalty of not less than $100, nor more than $500 and costs with or without imprisonment for a period not exceeding one month.

Every employer shall upon request give to any apprentice who has been employed by him and is leaving his employment a written statement of the time of such employment.

3. BRITISH COLUMBIA.

[*Contributed by* A. V. PINEO, ESQ., LL.B., *Legislative Counsel.*]

Acts passed, 1924 Session—51: Public—47; Private—4.

Adoption.—C. 2 amends the "Adoption Act" by providing that a husband and wife together may adopt the unmarried minor child of either of them.

Barbering.—C. 5 incorporates a provincial barbers' association and

provides for examination and registration of barbers and their apprentices, along much the same lines as the Acts respecting the learned professions.

Boiler Inspection and Electrical Energy Inspection.—Cc. 6 and 16 transfer the administration of the Acts dealing with these subjects from the Government Department formerly in charge to the Workmen's Compensation Board. This is in pursuance of the policy of centralizing these and similar inspection activities under the Board, so that the same body which is brought into immediate touch with accidents and their causes shall also have charge of the fostering of those conditions which tend to do away with the possibility of accidents and make the payment of compensation unnecessary.

Co-operative Associations.—C. 10 provides that the marketing contracts of co-operative associations may fix specific sums as liquidated damages to be paid by the grower upon the breach of the contract in respect of the sale or delivery of his product, and extends the remedies of injunction and specific performance to the enforcement of such contracts.

Escheats and Forfeitures.—C. 18 provides that lands held by a corporation at the time of its dissolution shall escheat to the Crown.

Horse-racing Regulations.—C. 24 limits the holding of race-meetings in the Province to five named race-tracks, with two race-meetings in the year covering a total maximum period of ten days at each of three of the race-tracks, and one race-meeting covering a maximum period of seven days at each of the other two.

Landlord and Tenant.—C. 27 makes new provisions in case of bankruptcy of a tenant, giving the trustee in bankruptcy discretion as to retaining or terminating the lease in the interest of the estate, and limiting the preferred claim of the landlord to three months' arrears of rent.

Motor-vehicles.—C. 33 establishes a system of licences for drivers of motor-vehicles under which, upon conviction of an offence against the motor-traffic regulations, the driver's white licence (printed on white paper) is taken up by the magistrate and a driver's blue licence (printed on blue paper) is substituted; and in like manner, upon conviction of a further offence, a driver's yellow licence (printed on yellow paper) is substituted. Upon conviction of the holder of a driver's yellow licence, the licence is taken up for cancellation. Provision is also made for the cancellation of a driver's licence at any time if the circumstances are considered such as to make this action advisable.

Police and Prisons, Provincial.—C. 40 authorizes the Municipal Council of any municipality and the Superintendent of Provincial Police to enter into an agreement under which the policing of the municipality will be undertaken by the Provincial Police Force, and the maintenance of a separate municipal police force be rendered unnecessary.

Noxious Weeds.—C. 46 prohibits the sale, for feeding purposes, of grain-elevator screenings which contain more than 1 per centum by weight of seeds of noxious weeds.

4. MANITOBA.

[*Contributed by* ERSKINE W. IRELAND, ESQ.]

Of the 131 Acts enacted for 1924, 87 are Amending Acts, 1 is a repealing Act and 43 cover new legislation.

Land Contracts.—C. 9 is an Act declaratory to the provisions of an

Act to amend "An Act respecting Contracts relating to Land," being C. 6 of 13 George V.

By s. 1 of this Act, the principal moneys referred to in s. 1 of c. 6 of 13 Geo. V are declared to have been intended to be and are the principal moneys payable under any of the instruments referred to in the said section as at and on the 5th day of May, 1923.

By s. 2 it is declared that the payment referred to in subsection 2 of said s. 1 included and includes a tender of payment without notice or bonus of the percentages of principal moneys therein referred to.

The Home for the Aged and Infirm.—C. 27 provides that the two institutions maintained at the City of Portage la Prairie, and known respectively as "The Home for Incurables" and "The Old Folks' Home," shall be continued as one institution under the name of "The Home for the Aged and Infirm."

Ss. 4 and 5 relate to lands and buildings and officers and employees of the institution.

The institution has for its objects the maintenance and care of: (*a*) Persons who are incapable through old age of supporting and caring for themselves; (*b*) persons afflicted with incurable diseases of a non-contagious and non-infectious nature; and (*c*) persons unable to care for themselves on account of bodily or mental affliction.

Ss. 7–10 relate to admissions to the institution. The Minister of Public Works is to authorize the admissions in all cases, and there must be proper medical certificates and reports supplied.

S. 11 provides that Treaty Indians shall not be admitted to the institution, unless the expense of their maintenance and other charges are guaranteed by the Superintendent-General of Indian Affairs at Ottawa.

Habitual drunkards and persons afflicted with any contagious or infectious disease are not admitted.

The municipality wherein a patient resides is liable for the cost of maintenance of such person to the extent of not less than 50 cents per diem, and payment for maintenance is made by the municipality to the Provincial Treasurer.

There are sections in the Act relating to the care and custody and the discharge of patients and there are sections relating to general provisions which concern chiefly the officers of the institution.

Accident and Sickness Insurance.—C. 33 is an Act to make uniform the law respecting Conditions in Policies of Accident and Sickness Insurance.

S. 4 provides that every policy shall contain the name and address of the insurer, the name, address and occupation or business of the insured, the name of the person to whom the insurance money is payable, the premium or other consideration for the insurance, the subject-matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which such liability is to accrue, and the term of the insurance. There are sections relating to the omission of conditions and to variations in conditions. No red ink is to be used in printing a policy except for the purposes mentioned in the Act and for the name, address and emblem of the insurer and the number of the policy.

In any case where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other

matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the Court deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as it may deem just.

S. 12 provides that the Act is to come into force on a day to be fixed by the Lieutenant-Governor by his Proclamation.

To this Act there is a long and special schedule of statutory conditions.

Automobile Insurance.—C. 34 is an Act to make uniform the law respecting conditions in policies of automobile insurance.

S. 4 provides that no contract shall be made for a term exceeding three years, but any contract may be renewed by the delivery of a renewal receipt or a new premium note.

S. 6, relating to the contents of the policy, has provisions similar to those set out in s. 4 of the Accident and Sickness Insurance Policy Act.

There are sections relating to the omission of conditions and to variations in conditions.

Relief from forfeiture, where the Court deems it inequitable that the insurance should be forfeited, is provided just as in the Accident and Sickness Insurance Policy Act. There are sections relating to the use of red ink in printing a policy and providing that the Act shall come into force on a day to be fixed by the Lieutenant-Governor by his Proclamation. Written applications are required under the Act.

At the end of the Act there is a schedule of statutory conditions.

Life Insurance.—C. 35 is an Act to make uniform the law respecting Life Insurance Contracts.

S. 2 contains a number of definitions. S. 3 relates to the application of the Act.

A contract is deemed to be made in the Province: (*a*) If the place of residence of the insured is stated in the application or the policy to be in the Province. (*b*) If neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within the Province at the time of making of the contract.

Every contract of insurance shall be evidenced by an instrument in writing, called a policy, which shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance money payable, the manner of payment, the premium and the facts which determine the maturity of the contract. There are sections relating to disclosure and misrepresentation of material facts. S. 10 provides that the statements made by the insured, or the person whose life is insured, in the application and on the medical examination, except fraudulent statements or statements erroneous as to age, shall be deemed to be true and incontestable after the contract has been in force for two years during the lifetime of the person whose life is insured.

There are provisions relating to the misstatement of age.

Where any premium (not being the initial premium) under any contract is unpaid, the insured, his assign or agent, or any beneficiary, may, within a period of grace of thirty days (or, in the case of a contract providing for the payment of premiums weekly, four weeks) from and excluding the day on which the premium is due, pay, deliver, or tender to the insurer at its head office, or at its chief agency in the Province,

or to its collector or authorized agent, the sum in default. S. 17 provides that every person has an insurable interest in his own life. S. 18 provides that each of the following persons has an insurable interest: (*a*) A parent in the life of his child under twenty-five years of age; (*b*) a husband in the life of his wife; (*c*) a wife in the life of her husband; (*d*) one person in the life of another, upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education; (*e*) a corporation or other person in the life of its or his officer or employee; (*f*) a person who has a pecuniary interest in the duration of the life of another person, in the life of that person.

Ss. 21 and 22 relate to policies on the lives of minors. There are certain restrictions made on insurance on the lives of children under ten years. No insurer shall insure the life of a child under ten years of age in any sum, or pay on death of a child under ten years of age any sum, which alone or together with any sum payable on the death of the child by any other insurer exceeds the sum as provided in the Act—$20 if the child dies under the age of one year, $50 if the child dies under the age of two years, $400 if the child dies under the age of ten years.

Ss. 23–40 relate to beneficiaries. There are three classes of beneficiaries: beneficiaries for value, preferred beneficiaries and ordinary beneficiaries.

Where the wife or husband of the person whose life is insured is designated as beneficiary, and is subsequently divorced, all interest of the beneficiary under the policy shall pass to the insured or his estate, unless such beneficiary is a beneficiary for value or an assignee for value.

Ss. 41–44 relate to proof of claim and payment. The insured is entitled to certain proof of claim, and the Court is given certain powers where the sufficiency of proof is not admitted by the insurer. Insurance money which is expressed to be payable at the maturity of the contract is payable thirty days after reasonably sufficient proof has been supplied to the insurer of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment.

The Act contains sections relating to the limitation of actions and to trustees and guardians.

S. 53 provides that the Act shall come into force on a date to be fixed by the Lieutenant-Governor by his Proclamation.

Loan and Trust Corporations.—C. 41 requires every corporation at least once in each year to prepare a balance-sheet or general statement in such form and containing such information as the Provincial Secretary may prescribe. Every corporation shall at least once in each year cause the accounts of such corporation to be examined by an auditor appointed by the shareholders. Such auditor must be an accountant.

S. 7 provides that no person shall be eligible as an auditor who is interested otherwise than as a shareholder or depositor or debenture-holder or bond-holder in any transaction of the corporation, and no director or other officer of the corporation shall be eligible during his continuance in office.

S. 8 relates to the rights and duties of an auditor and s. 9 to the auditor's report to the shareholders.

S. 10 provides that every corporation shall at least ten days before the annual meeting of the shareholders of such corporation mail or deliver to each shareholder of such corporation and to the Provincial

Secretary a copy of the balance-sheet or general statement accompanied by a copy of the report or certificate of the auditor of the corporation.

An annual statement of the affairs and financial condition of the corporation is to be furnished to the Provincial Secretary by the Managing Director, Manager or Secretary, and such statement is required to be certified by the auditor of the corporation, who is to make an affidavit thereon. Any corporation which does not file such annual statement in the manner and within the time required shall, unless excused therefrom by the Provincial Secretary, incur a penalty of $50 for each day of default but not exceeding in the whole $1,000, to be collected as a debt due to the Crown in the right of the Province.

S. 12 relates to guaranteed trust investments and trust deposits.

S. 13 provides that no trust company incorporated after the coming into force of this Act shall transact business in this Province which has not an unimpaired paid-up capital of at least $100,000.

Noxious Weeds.—S. 3 of c. 43 provides that every person, firm, corporation or municipality which under this Act may be regarded as being in charge of any land shall, upon knowledge of the presence of any common barberry bush upon such land, forthwith thoroughly eradicate such common barberry bush from such land.

Under s. 4 a general duty is cast upon every occupant of land, or if the land is unoccupied, upon the owner thereof or the duly accredited agent or agent of such owner to cut down or destroy noxious weeds.

A duty is placed upon a railway company to destroy noxious weeds growing on land of the company adjoining the railway, with a penalty of $2 for every day during which a railway company neglects to do anything which it is required to do upon each section of the railway in charge of a separate sectionman or sectionmen.

Every thresher, immediately after completing any threshing engagement and before leaving the premises on which said work is done to go to the farm of another, or before travelling upon any public highway, must clean the threshing machine, together with all wagons and other outfit used in connexion with such threshing, so that seed of noxious weeds shall not be carried to or on the way to the next place of threshing by the said threshing machine or outfit. The penalty is fixed at not less than $25, and not more than $100, and in default of payment to one month's imprisonment. The Act requires a copy of the above-mentioned requirement to be affixed to every threshing machine.

Municipal councils are to see that weeds on vacant lands are destroyed.

Ss. 14–28 contain general provisions relating to municipal inspectors and sub-inspectors. Every municipality is required to appoint by resolution at least one official to be known as Municipal Noxious Weeds Inspector.

Ss. 29–34 relate to the duties and authority of inspectors and sub-inspectors. For the purpose of performing his duties and exercising the powers conferred upon him, every noxious weeds inspector or other person charged with the enforcement of this Act may enter upon any land without the consent of the owner or occupant and without being subject to any action for trespass or damages for any cause whatever.

When the inspector thinks it is necessary to cut down a growing crop in order to prevent the spread of noxious weeds, he must notify one of the councillors of the municipality to inspect the said crop, and

the opinion of the latter is final. Inspectors are required to make annual report .

Under s. 37 the owner may be forbidden to rent weed-infested land.

The Lieutenant-Governor in Council may appoint and fix the remuneration of a board of one or not more than three weeds commissioners and officers who are to see that every municipal noxious weeds inspector or sub-inspector discharges the duties imposed upon him by the Act.

There are several miscellaneous sections in the Act and sections relating to penalties.

Protection of Private Parks.—C. 45 is a short Act relating to Private Parks. Any person throwing any rubbish into any such park, garden or ground referred to in the Act, or trespassing therein, or getting over the railings or fence, or stealing or damaging the flowers or plants, or committing any nuisance therein, is guilty of an offence against the Act, and liable upon conviction to a penalty not exceeding $25, and in case it is necessary to state in any proceedings the ownership of the property of such park, garden, ground, flowers or plants it is sufficient to describe the same as the property of the committee of ratepayers appointed under the Act.

Provincial Savings.—C. 59 is to encourage saving, to authorize the borrowing of such savings, and the issue of securities therefor.

The Lieutenant-Governor in Council is empowered to borrow money by means of deposits in any amounts and from any persons or corporations in Manitoba and to open offices for this purpose at such points in Manitoba as he may find necessary.

Moneys available under this Act may be used by the Lieutenant-Governor in Council for investment for any one or all of the following purposes and no other: (*a*) In making loans under the Rural Credits Act. (*b*) In making loans to the Manitoba Farm Loans Association. (*c*) In the purchase of bonds issued by the Manitoba Farm Loans Association. (*d*) For any purposes of the Government. (*e*) In the purchase of stock, bonds or debentures issued or guaranteed by the Province of Manitoba or by the Dominion of Canada or by any Province thereof. (*f*) In the purchase of treasury bills issued by the Province of Manitoba. (*g*) In the purchase of bonds, debentures or stock issued by any city, rural municipality or school district in the Province of Manitoba.

Municipal Loans for Seed Grain.—The preamble of c. 61 provides that whereas there are certain localities in the Province of Manitoba in which damage has been sustained by persons engaged in agricultural pursuits to such an extent as to render them unable to procure seed grain for use in the season of the year 1924, it is expedient to provide means whereby said persons may obtain seed grain.

Rural municipalities are empowered to borrow up to $50,000 to furnish seed grain either by promissory notes of the municipality or by the issue and sale of debentures, after a by-law of the municipality shall have been passed by the Council authorizing the borrowing of the said money and the issuing of said debentures.

Any municipality to which money has been lent under this Act shall have authority to expend up to $500 on any person entitled thereto and in no case is the money to be given or lent, but the municipality must purchase and distribute the seed grain.

The Act contains provisions relating to promissory notes given to any municipality for seed supplied. The amount of such note, when a

copy thereof has been filed in the Office of the Clerk of the County Court pursuant to the terms of the Act, forms a lien and charge upon the land on which such seed is sown and ranks over all encumbrances except taxes and a first mortgage.

Agricultural College. S. 2 of the University Amendment Act (c. 71) relates to the Agricultural College of Manitoba and defines the purposes of the said institution.

S. 3 provides that the government, management, administration and control of the said institution, and of the property, revenue, business, and affairs thereof, are vested in the Board of Governors of the University of Manitoba.

S. 4 provides that the instruction and training in the said institution are to be carried on and administered as a Faculty of Agriculture in the University of Manitoba. The said Board of Governors shall not incur any liability or make any expenditure for the purchase of lands or the erection of buildings in connexion with the work of the Agricultural College of Manitoba without the approval of the Lieutenant-Governor in Council.

There are sections relating to an Advisory Council for the Agricultural College of Manitoba.

Bills of Sale and Chattel Mortgage.—The purpose of the amendments (in c. 2) is to permit the registration of assignments of book debts or accounts.

S. 3 (1) provides that : " Every sale made of goods and chattels situated in the Province of Manitoba, not accompanied by an immediate delivery, followed by an actual and continued change of possession, of the goods and chattels sold, and every assignment, save as hereinafter provided, made by any person engaged in any trade or business of his existing or future book debts or accounts or any class or part thereof, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and shall be accompanied by an affidavit of a subscribing witness thereto of the due execution thereof, and an affidavit by the bargainee or his agent that the sale, or the assignment, as the case may be, is *bona fide* and for good or valuable consideration as set forth in the said conveyance and not for the purpose of holding or enabling the bargainee to hold the goods or book debts, as the case may be, mentioned therein against the creditors of the bargainor, as by this Act provided, within thirty days from the date thereof, otherwise the sale or assignment shall be absolutely null and void as against the creditors of the bargainor and as against subsequent assignees, purchasers or mortgagees in good faith for good or valuable consideration ; but nothing in this section shall make necessary the registration of assignments of book debts due at the date of the assignment from specified debtors, or of debts accruing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bona fide* and for value, or in any authorized assignment under the Bankruptcy Act."

S. 6 provides that : " Every mortgagee and every assignment of book debts registered in pursuance of this Act shall cease to be valid as against creditors of the person or persons making the same and against subsequent bargainees, purchasers and mortgagees in good faith for good or valuable consideration after the expiration of two years from the day of the registration thereof unless within thirty days next preceding the expiration of the said term of two years, a statement of the mortgagee or

bargainee, his executors, administrators or assigns, showing in case of any such mortgage, the amount still due for principal and interest thereon, and of all payments on account thereof and in case of any such assignment of book debts that it is still held as security in accordance with the original terms thereof and in both cases with an affidavit of the mortgagee or bargainee or one of several mortgagees or bargainees or of the assignee or one of several assignees, or of the agent of the mortgagee, bargainee or assignee or mortgagees, bargainees or assignees as the case may be, that the statement is true and that the mortgage or assignment as the case may be has not been kept alive for any fraudulent purpose, is filed in the office of the clerk of the County Court wherein such mortgage or assignment was originally registered, except in case the goods and chattels mortgaged or the assignor of the book debts assigned or the mortgage or assignment of book debts, shall have moved or been removed to another judicial division or other judicial divisions, in which case such statement and affidavit shall be filed in the county court office for such other division. For the purpose of filing the statement and affidavit shall be deemed one instrument."

Burials.—C. 3 contains amendments to permit County Court Judges to order disinterment in certain cases.

Charitable Associations.—Under the Charitable Associations Act, it is provided that any number of persons, not less than ten, having subscribed or holding together not less than one hundred dollars in money or money's worth, for the use of their intended institution, may make and sign a declaration of their intention to become a corporation under the provisions contained in the said Act for the purpose of mutual protection, by means of contributions, subscriptions, donations or otherwise, against all casualties caused by disease, inevitable accident or death, with the view of helping the afflicted or the widows and orphans of deceased members. The amending Act (c. 4) adds the words " relations and dependents " after the word " orphans."

A new section is added by the amending Act which provides that if a resolution authorizing an application to the Lieutenant-Governor therefor is passed by a vote of not less than two-thirds of the members of the Association present in person or by proxy at a general meeting of the association duly called for considering the subject of such resolution the Lieutenant-Governor in Council may from time to time direct the issue of supplementary letters patent to the association embracing the purposes of the said Act.

Welfare of Children.—C. 5 simply increases the penalty for ill-treatment of a child.

By c. 6 the name " Child Welfare Board " is substituted for the name " The Board of Selection." There are a number of minor amendments. A new part is inserted in the Act, and it is described as Part III, the original Part III becoming Part IV. There are many amendments to correct numbering. The new Part III relates to bereaved and dependent children. A bereaved and dependent child is defined as any child of fourteen years of age or under, who, because of death of both parents, or death of the father, or confinement of the father in a hospital for mental diseases, or total and permanent physical disability of the father, is likely to suffer because of the lack of adequate means to supply proper care for such child. The Child Welfare Board is to submit to the Lieutenant-Governor in Council for approval a schedule which shall set

forth the basis upon which allowances for the maintenance of a bereaved and dependent child may be granted. S. 23 provides that the Lieutenant-Governor in Council may set aside during each fiscal year out of the Consolidated Revenue Funds of the Province a sum or sums in the whole not to exceed in any one year the amount voted for said purpose in the Supply Bill of that year to provide maintenance or partial maintenance for bereaved and dependent children. Where moneys have been paid to the mother of a bereaved and dependent child, there may be a lien upon the lands of the child or mother.

The Surrogate Court Judge has special power to represent an infant where the infant's interest in any estate is under $2,000.

The Child Welfare Act came into force by proclamation in September 1924.

By c. 7 there is to be no employment of a child under eighteen between 9 p.m. and 6 a.m.

County Courts.—By c. 11 the County Court Judges are to form a board to be known as " The Board of County Judges " with power to frame and adopt a tariff of fees to be allowed to barristers and attorneys, and make and adopt general rules and orders concerning the practice and proceedings of the County Courts. All such tariffs, rules and orders are to have the approval of the Lieutenant-Governor in Council.

The jurisdiction of the County Court is increased from $500 to $800.

A further amendment provides that the plaintiff shall deliver a defence to a counterclaim, as if it were a statement of claim, within ten days after the same is served upon him.

The Act, as provided by s. 11, shall come into force on the proclamation of the Lieutenant-Governor in Council. The said Act by proclamation came into force in September 1924. The increased jurisdiction of the County Court from $500 to $800 has deprived the Court of King's Bench of many actions.

An Act to repeal the County Court Temporary Aid Act (c. 12) is the only repealing Act of the 1924 legislation.

Distress.—Under c. 14 the landlord's priority in case of bankruptcy of tenant is limited to three months' rent, and the landlord is to rank as a general creditor for the balance. The assignee may continue under lease after giving notice within one month from the date of the assignment or receiving order. It is further provided that in case any such lease may have terminated or expired at or before or after the date of any such assignment or receiving order, the assignee or trustee shall have the right to retain possession of the leased premises for a period of forty days from and after the date of the assignment or receiving order without notice to the landlord, and shall have the further right by giving notice to the landlord at least ten days prior to the expiration of said forty days to retain possession of said leased premises for an additional period of thirty days, subject to payment of a rental calculated on the basis of said lease.

Elections.—The amending sections of c. 15 relate to the marking of ballots in cases where there are two candidates and also in cases where there are more than two candidates. There are also general rules for the counting of ballots.

Farm Loans.—The Lieutenant-Governor in Council may by c. 18 empower the board to issue securities for certain purposes. With his approval also the Association may at any time borrow from banks, the amount

outstanding not to exceed $300,000. All funds of the Association are free from taxation.

Fires Prevention.—By c. 19 power is given to Dominion Fire ranger to appoint fire guardians. Any person may be appointed to control fighting of bush fires.

Bees.—C. 20 is an Act to amend the Act for the Suppression of Foul Brood among Bees. Beekeepers must make application for certificate of registration. Any person procuring or coming into possession of bees shall, within ten days thereafter, make application to the Minister for a certificate of registration. There is a section providing for the quarantine of imported bees. The sale of diseased bees is forbidden. Penalties are provided.

Game Protection.—By c. 21 protection is provided for deer, etc., for prairie chicken, etc., for water-fowl, and there is a close season for certain game birds. Night hunting is prohibited. The use of dogs for searching out or hunting any muskrat is absolutely prohibited. There is a section relating to the keeping of prairie chicken, etc., in storage.

No trading is to be done in furs without a licence. The fees are as follows: Raw fur merchant, $10; travelling agent, $10; travelling fur buyer, $25. Licensees must make monthly returns. A bond may be called for to secure payment of royalties. There are sections relating to export permits, tanners' permits, shipping furs out of Province.

By c. 22 no rifle or other weapon using ball cartridges shall be used on any of the marshes during the open season for water-fowl.

Cc. 23 and 24 relate to West Shoal Lake sanctuary and game preserve, and to Shoal Lake bird sanctuary and game preserve respectively.

Garnishment.—C. 25 relates to garnishment exemptions. The exemption of $40 is changed to $30 in the case of widows or widowers without dependent children, and unmarried persons who are not supporting dependent brothers or sisters under the age of eighteen years, or a dependent parent or parents, grandparent or grandparents, and $60 in the case of all other persons.

Jury Act.—C. 38 contains amendments consequent upon change in law respecting grand jury. There is to be one jury roll in each judicial district. It is further provided that: "In the Eastern Judicial District forty-eight, and in each of the other judicial districts of the Province, thirty-six jurors shall be summoned in the first instance for any sitting of the Court of King's Bench for the trial of causes, matters and issues which are to be tried with a jury and for the trial of criminal matters and proceedings."

Lien Notes.—By c. 39 it is provided that an assignment in writing of a lien note, receipt note, hire receipts, order for chattels or conditional sale agreement, shall be effective to transfer the assignor's rights of property in the chattels therein mentioned and all rights and powers therein set out, including without restricting the generality of the foregoing, the assignor's right of seizure, removal and sale, and such assignment, without any registration thereof, shall also have the same force and effect as if such assignment were a bill of sale of the chattels therein comprised duly registered under the provisions of the Bill of Sale and Chattel Mortgage Act.

Government Liquor Control.—C. 40 contains several amendments relating to the administration of the Act.

All properties whether real or personal and all moneys acquired,

administered, possessed or received by the Commission and all profits earned by it in the administration of the Act are to be the property of the Government, and all expenses, debts and liabilities incurred by the Commission are to be paid by the Commission.

Mortgage.—C. 42 relates to advances for seed grain by mortgagees. Not more than the value of $250 in all shall be advanced or delivered under the provisions of the Act in respect of any one quarter section of land in any one year.

Public Health.—By c. 48 there is a repeal of the requirement to remove smallpox cases to isolated hospitals. There are sections in the amending Act relating to fumigation, entering sick room with the permission of the health officer, duty of occupants of placarded houses, permit to go about usual vocation, cleaning room and clothing after communicable diseases.

Public Schools.—It is provided by c. 49 that schools with attendance of less than five are not to be kept open. Municipalities are to collect tax arrears in newly organized territories. There is a provision relating to borrowing by municipality for deficiency for schools. The Lieutenant-Governor in Council may by order in council authorize the guaranteeing of and accordingly guarantee the repayment of the whole or any part of the moneys so borrowed. Municipalities may make special grants to High Schools. There are several sections relating to grants.

Public Works.—C. 51 contains sections relating to the fiscal supervisor of public institutions. The said fiscal supervisor is responsible for the collection of all maintenance fees and other like charges in respect of patients in, and the revenues of public institutions; he is to receive and have access to all financial reports and statements from all institutions maintained by the revenues of the Province, and for such purposes he may enter into and inspect all buildings, offices and records of institutions under the control of the Government of Manitoba, and shall also perform such other duties as may be assigned to him by the Minister.

Registry.—By c. 57 there is to be no further registration of Crown Grants under the old system of registration.

Rural Credits.—By c. 58 the Lieutenant-Governor in Council may remove directors and appoint others. The amending Act contains special provisions for making advances to certain societies. Penalties are provided for misuse of moneys by the borrowers. The amending Act provides for the appointment of an administrator for certain societies and recites the powers of the administrator so appointed. There are sections relating to the custody of records, the deposit of moneys, appointments, accounts and remuneration of the administrator.

School Attendance.—By c. 60 a child attaining fourteen is to continue in school until the end of term. School attendance officers are to be paid such salaries or remuneration as shall be fixed by the authorities appointing them and such reasonable expenses as may be incurred in carrying out their duties, and such salaries or remuneration and such expenses shall be paid by the respective school districts in which such officials shall be acting.

Soldiers' Taxation Relief.—By c. 62 the word "Dependent" is redefined to include mother while soldier on service. There are sections relating to property acquired by widow or mother after soldier's death and to home of beneficiary acquired after soldier's death.

Temperance.—C. 67 provides that a certificate purporting to be

signed by an analyst as to the percentage of proof spirits contained in any liquid, drink, liquor or combination of liquors seized or offered in evidence in any prosecution or proceedings under the Act shall be *prima facie* evidence of the facts therein stated without proof of the signature or standing or qualification of the person by whom the certificate is given. It is further provided that every inspector, policeman, constable or police officer is justified in arresting and may arrest without warrant anyone whom he finds committing an offence against the Act.

Treasury Department.—By c. 69 the Lieutenant-Governor in Council may create a seal for the Department which shall be known as the seal of the Treasury Department, and may at his discretion alter or modify said seal.

When securities are sold at less than par value, a special account is to be kept—and also a special account when there are sales of securities above par value.

Trustees.—C. 70 empowers the Lieutenant-Governor in Council to invest trust moneys on hand and enumerates wherein may be made the investments.

War Relief.—By c. 74, s. 3*a* of the War Relief Act is amended by adding thereto the following subsection :

(3) The burden of proving that any person is entitled to the protection given by this section shall be on such person and no one shall be deemed entitled thereto in any proceedings unless he has claimed the same either before the commencement of such proceedings or within two months after notice of the same has been served upon him. Such claim to protection shall be made in writing or in person by the claimant, or by any person acting on behalf of the claimant, to the District Registrar, or Registrar of the Registration District, as the case may be, in which the land affected lies. Under such claim there shall be furnished to the District Registrar or Registrar, as the case may be, such information respecting the land or the claimant as he may require. Where satisfactory proof is furnished such proceedings shall be of no effect. In cases where any notice of sale, notice of final order of foreclosure, or notice to redeem in a tax application shall be served after this amendment has come into force, such notice of sale, notice of final order of foreclosure or notice to redeem shall be deemed to be a notice to file a claim within the meaning of this subsection. In cases where notices in sale proceedings, foreclosure proceedings or tax application have been served before this amendment has come into force, a period of two months from the coming into force of this amendment shall be allowed, during which parties affected may file claims as aforesaid, upon the same terms and with the same effect as above set forth. If no such claim is made within the time named herein the said protection shall be deemed to be voluntarily waived ; and the proceedings may be continued as if this Act were not in force. The District Registrar or Registrar, as the case may be, may from time to time extend the period within which such claim shall be made, if, in any case, he deems it just and right so to do. Where after due diligence the person to be served cannot be found, such service may be effected in such manner as the District Registrar or Registrar, as the case may be, may direct.

Under c. 75 the Court will consider the ability of the debtor to pay the debt.

United Church of Canada.—The preamble of c. 129 recites as follows :

Whereas the Presbyterian Church in Canada, the Methodist Church and the Congregational Churches of Canada have by their petition represented that they have agreed to unite and form one body or denomination of Christians under the name of " The United Church of Canada," in accordance

with the terms and provisions of a Basis of Union agreed upon by them, and that they have petitioned the Parliament of Canada for an Act to incorporate the Church to be formed by the said Union under the name " The United Church of Canada " ;

And whereas the Petitioners have prayed that an Act be passed by the Legislature of this Province to enact as hereinafter set forth with regard to the property, rights and powers hereinafter mentioned ;

And whereas it is expedient to grant the prayer of the said petition.

The short title of the Act is " The United Church of Canada Act."

S. 2 of the Act contains several definitions.

S. 3 vests in the United Church all general property, real and personal, within the Province, belonging to or held in trust for or to the use of the Presbyterian Church in Canada, the Methodist Church, and the Congregational Churches, or belonging to or held in trust for or to the use of any corporation, board, committee or other body, whether incorporated or unincorporated, created by or under the government or control of, or in connexion with, any of the said churches.

Schedule A to the Act contains a form of Trust Deed. The church property is to be held by the trustees upon trust to use the trust property for purposes directed by the congregation and for the maintenance of public worship, to erect and repair buildings, to obey all lawful orders and directions, to permit use of the trust property for church, manse and Sunday-school purposes, to let and sell pews and burial plots and to let manses. The trustees have power to sell, mortgage, exchange or lease the trust property with the consent of the Presbytery. They are to keep proper accounts and minutes, and are to have seven days' notice of all special meetings and one day's notice of other meetings. The number of trustees must not be fewer than three or more than fifteen, and vacancies are filled by election by the congregation, or in default of such election, by the Presbytery, and the property of a congregation which ceases to exist is to be subject to the trusts determined by the Conference. The trustees are not to be liable for involuntary loss.

S. 30 of the Act provides that the same come into force on the day upon which the United Church shall be incorporated by Act of the Parliament of Canada, provided that the said date in respect of the whole of the Act or any section or sections thereof may be altered to such subsequent date or dates as shall be fixed by proclamation of the Lieutenant-Governor in Council.

A congregation may vote itself out of the Union. This is provided for by s. 8 of the Act, which is as follows :

(*a*) Provided always, that if any congregation in connexion or communion with any of the negotiating churches shall, at a meeting of the congregation regularly called and held within six months after the coming into force of this section, decide by a majority of votes of the persons present at such meeting and entitled to vote thereat, not to concur in the said union of the said churches, then and in such case the property, real and personal, belonging to or held in trust for or to the use of such non-concurring congregation shall be held by the existing trustees, or other trustees elected by the congregation, for the sole benefit of said congregation. Should such congregation decide in the manner aforesaid at any later time to enter the union and become part of the United Church, then this Act shall apply to the congregation and all the property thereof from the date of such decision.

(*b*) The persons entitled to vote under the provisions of the first clause of this section and of s. 6 shall be only those persons who are in full member-

ship and whose names are on the roll of the church at the time of the coming into force of this section.

(*c*) " Congregation " in this section means a local church as mentioned in " The Basis of Union."

There are certain sections in the Act relating to liability for congregational debts and liability for denominational debts. S. 11 and s. 12 relate to colleges and teaching in colleges. S. 13 provides for the continuance of existing trusts. S. 14 provides for the establishment of boards and committees. Under s. 15 power is given to acquire and dispose of property. S. 19 provides for the issuing of debentures. Statutes of Mortmain are not to apply. There are sections relating to the General Council of the United Church, the General Assembly of the Presbyterian Church in Canada, the General Conference of the Methodist Church and the Congregational Union of Canada.

S. 28 provides that the provisions of the Act of Incorporation shall have full force and effect with respect to any property or civil rights within the Province.

Co-operative Wheat Producers.—The preamble of c. 130 is as follows :

Whereas Manitoba Co-operative Wheat Producers, Limited, was duly incorporated under " The Companies Act " of the Province of Manitoba on the 28th day of January, 1924, with powers similar to those hereinafter set forth, including the power to encourage and foster the business of producing and marketing wheat and other grain and cereals co-operatively, to reduce speculation, to stabilize markets and to co-operatively and collectively handle the problems of grain growers.

And whereas the said Manitoba Co-operative Wheat Producers, Limited, has by its petition prayed that the said incorporation be confirmed, that the powers of said Corporation be defined and enlarged, and that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition.

Under s. 2 the capital stock of the Company is fixed at $50,000, and it is provided that the Company shall not commence business until at least 10 per cent. of the capital stock shall have been subscribed, and at least 10 per cent. of the amount of stock so subscribed actually paid up.

The objects of the Company are enumerated in s. 4 of the Act. These are set out at length and are contained in forty-two subsections. Under subsections 1–4 the Company is authorized to buy and sell grain and products, to enter into contracts for or incidental to the co-operative selling or marketing of grain, to act as agent, broker, factor, for its shareholders or any of them or for others, and to deal with documents of title to grain. Subsection 5 empowers the Company to operate a pool or pools for grain received or handled by the Company in such manner and on such basis as may be from time to time decided upon and to distribute the proceeds thereof amongst the parties contributing grain to such pool. Hundreds of farmers throughout Manitoba have shipped their grain to the Wheat Pool, and while they have been paid in part upon the delivery of the grain, the balance to which they will be entitled will not be paid until some months later, so that it remains to be seen by how much, if at all, they have benefited by joining the Pool.

Other subsections of s. 4 empower the Company to mortgage grain, to agree to co-operative marketing, to manufacture and deal in flour, to acquire real and personal property, to acquire elevators, to acquire ships, to acquire concessions, to deal in by-products and to borrow money.

The Company may establish branches or agencies in any Province

of Canada or in any country; it may invest any moneys of the Company in any form of investment which may be considered desirable; it may enter into partnerships with any person or any company; and it may acquire other companies.

S. 5 provides that the Company shall hold all grain received by it from any person or persons and the proceeds thereof, free from any liability to seizure or attachment by any creditor of the Company.

S. 7 provides that the affairs of the Company shall be managed by a board of not less than five, nor more than nine, directors. There are provisions relating to the powers of the directors. The shareholders of the Company shall be grouped in local societies formed upon such territorial limits or other basis as shall be determined by the directors of the Company.

S. 11 provides that the shareholders and directors of the Company shall not as such be held responsible for any account, default or liability whatsoever of the Company or for any engagement, claim, payment, loss, injury, action, matter or thing whatsoever relating to or connected with the Company beyond the unpaid amount of their respective shares in the capital stock thereof.

5. NEW BRUNSWICK.

[*Contributed by* M. B. Dixon, Esq., K.C.]

Acts passed—82; Public—39; Private—43.

Appropriation.—Act No. 1 provides $560,022 for civil government, and by No. 2 $359,671 for roads and bridges and public works is provided.

Rates and Taxes.—Act No. 3 is a consolidation of previous Acts in reference to the assessing, levying and collecting of rates and taxes. The Act is made applicable to parishes, incorporated towns and cities except where special provisions exist. Provision is made for raising funds by a poll-tax and by assessment on real estate, personal property and income. Real estate may be seized and sold for non-payment of taxes.

Electoral Districts and Sub-districts.—Act No. 4 provides for the division of the counties, cities, towns and parishes into electoral districts and sub-districts for election purposes.

Life Insurance Act.—Act No. 31 provides that every contract of insurance shall be in writing, defines what shall be insurable interest, provides for policies on lives of minors, defines who may be beneficiaries, provides for making proof of claim and payment, limits the time for bringing actions and provides for payment of money into Court under certain circumstances.

Protestants' Orphans Home.—Act No. 35 is a consolidation of previous Acts. It defines what children may be received into the home and provides for the management of the home. The home is to have general rights and powers of corporations, and the directors are empowered to make rules and regulations and to have full control and custody of children. The property of the institution is to be exempt from taxation.

The Acts not above referred to are of minor importance and chiefly slight amendments to other Acts.

6. NOVA SCOTIA.

[*Contributed by* F. F. MATHERS, ESQ., *Deputy Attorney-General.*]

1923.

At the session of the Legislature held during the year sixty-seven Public Acts were passed, but, with the exception of the following, none of them seems to be of any interest with regard to comparative legislation.

Motor Carriers.—The purpose of c. 1 is to regulate and tax motor carriers. The expression " motor carrier " is defined in the Act to mean any person operating, whether by himself or another, any motor vehicle with or without trailer attached, upon any public highway for the transportation of passengers or property for compensation between fixed termini or over a regular route, even though there may be periodic or irregular departures from said fixed termini or route. Supervision over motor carriers is exercised by the Board of Commissioners of Public Utilities, which fixes or approves schedules of rates, tolls, fares or charges, and regulates and supervises schedules, service and safety of operations. Every motor carrier is prohibited from operating a motor vehicle in his capacity as motor carrier without first having applied for and obtained from the Board of Commissioners of Public Utilities a certificate declaring that public convenience and necessity require such operation.

Motor carriers are required to pay a tax to the Province.

Conditional Liberation of Prisoners.—C. 2 is the ordinary Ticket of Leave Act, applicable to imprisonment for offences against provincial laws. The Act is similar to a Ticket of Leave Act passed some years ago by the Parliament of the Dominion of Canada, respecting imprisonment for offences against the laws of the Dominion.

Village Facilities.—C. 3 authorizes certain communities which are not eligible for incorporation under the Towns Incorporation Act to have Commissioners appointed for supplying the community with electric light or power, fire protection, sewerage, water, police protection, and to acquire land and buildings for public purposes.

Electrical Installations.—C. 7 applies, except to the cities in the Province, and its object is the prevention of fire and injury to persons and property, by exercising supervision over electrical installations in buildings.

Title to Lands (Trial of Actions).—C. 10 requires that all actions for trespass to lands or in which possession or recovery of lands is sought and all actions in which the title to lands is in issue, shall, unless the Court or a Judge otherwise orders, be tried in the county in which the lands lie.

1924.

During the session fifty-nine Public Acts were passed, but for the purposes of comparative legislation the following are all it is deemed necessary to notice.

Opium and Narcotic Drugs.—C. 6, which is an Act to provide for the Compulsory Treatment of Persons addicted to the Improper Use of Opium and other Narcotic Drugs, authorizes the Provincial Health Officer to notify any person addicted to the improper use of cocaine, opium or their derivatives, or any other narcotic drug which for the time being is included in the schedule to the Opium and Narcotic Drug Act, 1923, of the Dominion of Canada, to consult a legally qualified medical prac-

titioner and submit himself for treatment, and to continue such treatment until cured. If the addict fails to comply with the notice, or if the treatment fails to effect a cure, provision is made for committing the addict to an institution for treatment.

Illegitimate Children. — Among other things c. 20, which amends c. 49, Revised Statutes, 1923, provides that the mother of every child born out of wedlock shall be the lawful heir of such child and shall inherit his estate in whole or in part, as the case may be, in the same manner as if such child had been born in lawful wedlock, and provides for the legitimation *per subsequens matrimonium* in the case of children born whether before or after the passing of the Act.

7. ONTARIO.

[*Contributed by* JOHN D. FALCONBRIDGE, ESQ., K.C.]

Acts passed—155; Public—86; Private—69.

The general election in Ontario having resulted in the defeat of the Government and the return to power of the Conservative Party, the first session of the sixteenth legislature of Ontario began on February 6 and ended on April 17, 1924. The annual volume of statutes contains 680 pages, of which 402 pages are occupied by public Acts (including one consolidating Act of 132 pages).

Northern Ontario.—Provision is made (c. 6) for the appointment of a member of the legislative assembly as Legislative Secretary for Northern Ontario, to hold office during the pleasure of the Lieutenant-Governor and to receive a salary of $6,000 per annum.

Civil Service Superannuation.—The Ontario Public Service Superannuation Act is amended (c. 7) so as to provide for the appointment of a Public Service Superannuation Board, with certain discretionary powers, and makes some changes in the amounts payable to superannuated public servants or their personal representatives or dependents.

Taxation.—Changes are made in the Mining Tax Act (c. 10), the Corporations Tax Act (c. 11), the Land Transfers Tax Act (c. 12). A refinement of cruelty is an Act respecting the Taxation of Land in *Unorganized Territory* (c. 13).

Indian Lands.—The Indian Lands Act (c. 15) ratifies an agreement made between the Province of Ontario and the Dominion of Canada for the settlement of all outstanding disputes between the parties as regards Indian Reserves in Ontario and the title to lands in cases where bands of Indians have surrendered their claims or become extinct. Some of the questions in dispute had been under consideration in certain appeals to the Judicial Committee of the Privy Council.

Crown Timber.—All sales of timber limits which confer the right to cut and remove birch, beech, maple, elm, ash, bass-wood or oak trees are to be subject to " The Manufacturing Conditions " set out in Schedule C to the Act (c. 16).

Mining.—An Act to amend the Mining Act of Ontario (c. 18), an Act to encourage the Mining of Iron Ore (c. 19) and an Act to establish the Mining Court of Ontario (with a judge having the powers of a judge of a Superior Court) (c. 21), need merely be mentioned.

Occupational Regulation.—An Act for licensing and regulating dealers in Unwrought Metals (c. 20), and an Act for the Registration of

Brokers (c. 49) continue the process by which almost every kind of occupation is subject to regulation. C. 73 is an Act respecting the Enrolment of Stallions.

Hydro-electric Power.—An Act to amend the Power Commission Act (c. 23) is a reappearance of a hardy perennial. If one were not reminded of the contrary by an annual amending Act, one might be inclined to assume that the powers and immunities of the Hydro-electric Power Commission were already so wide that they could not be made wider.

Highways.—Acts designed for the improvement of highways are an Act respecting Highways (c. 27) and an Act to amend the Ontario Highways Act (c. 28).

Judicature.—An Act to amend the Judicature Act (c. 30) was a bold attempt to amend, in effect, an Act of the British Parliament. By the British North America Act, 1867, the appointment of judges was conferred upon the Governor-General of Canada in Council, whereas under the Ontario Act in question it was proposed that the Lieutenant-Governor of Ontario in Council should have power to designate certain judges of the High Court Division of the Supreme Court of Ontario to be judges of the Appellate Division, and to designate certain judges to hold the offices of Chief Justice of Ontario and Chief Justice of the High Court Division. These provisions were held to be *ultra vires* in *Attorney-General for Ontario* v. *Attorney-General for Canada*, [1925] A.C. 750. Some other provisions of the Act, however, were held to be *intra vires*.

Slander.—An Act to amend the Libel and Slander Act (c. 31) provides as follows:

> In an action for slander for defamatory words spoken of a woman imputing unchastity or adultery it shall not be necessary to allege in the plaintiff's statement of claim or to prove that special damage resulted to the plaintiff from the utterance of such words, and the plaintiff may recover damages without averment or proof of special damage.

Contributory Damage.—An Act to amend the law as to Contributory Negligence (c. 32) provides in effect that in an action for damages founded upon negligence in which contributory negligence is proved, the jury (or the judge, in an action tried without a jury) is to apportion the damages "so that the plaintiff shall have judgment only for so much thereof as is proportionate to the degree of fault imputable to the defendant." The principle seems just, but the draftsmanship of the Act is defective, and the Conference of Commissioners on Uniformity of Legislation in Canada has prepared a simpler draft Act based upon the wording of the Maritime Conventions Act.[1] It is hoped that the Legislature of Ontario can be persuaded to adopt the simpler draft of the Conference, which has already been adopted in New Brunswick and Saskatchewan.

Warehousemen's Liens.—An Act respecting Warehousemen's Liens (c. 39) is an Act which was prepared and recommended by the Conference of Commissioners on Uniformity of Legislation in Canada in 1921, and which has been also adopted in Alberta, British Columbia, Manitoba, New Brunswick and Saskatchewan. Subject to certain conditions, it is provided that every warehouseman shall have a lien for his charges on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the

[1] See *Conference Proceedings*, 1924, p. 34; *Canadian Bar Association Proceedings*, 1925, p. 303.

possession of the goods by the owner or by his authority. The Act confers upon the warehouseman a right to sell the goods by public auction, after notice given pursuant to the Act.

Landlord and Tenant.—An Act to amend the Landlord and Tenant Act (c. 42) was passed in consequence of the amendment of the Dominion Bankruptcy Act, s. 51, in 1923, which in effect says that when a tenant is declared a bankrupt or makes an assignment for the general benefit of his creditors, the rights and priorities of the landlord are to be governed by the law of the province in which the demised premises are situate. Accordingly the Ontario Act declares that the landlord's preferential lien for rent (that is, to the extent of distrainable goods) shall be *restricted* to the period of three months next preceding and to the period of three months next following the receiving order or assignment. The Act also confers on the trustee in bankruptcy the right to surrender the premises and disclaim the lease or to retain the premises for the unexpired portion of the term, and defines the trustee's rights as regards a sub-tenant.

Companies.—An Act to amend the Ontario Companies Act (c. 47) contains provisions for the issue of shares without any nominal or par value, and for the incorporation of insurance companies, including mutual and cash-mutual corporations of various kinds.

Sale of Securities.—An Act respecting the Sale of Securities (c. 48) is a so-called "blue sky law," intended to protect the public by requiring the issuer of any security to file a prospectus, containing certain information as required by the Act, with the Provincial Secretary, upon offering the security for sale. The Act defines the liability of promoters and persons who sign the prospectus, and requires that every advertisement or circular, other than a prospectus, used for the purpose of promoting or aiding in the sale of securities shall contain a statutory notice referring to the prospectus. There are also provisions as to furnishing copies of the prospectus to prospective purchasers, and as to investigation, by the Provincial Secretary or any Crown Attorney, of the issue, sale, offer for sale, and disposition of the proceeds of the sale of any securities.

Insurance.—An Act respecting Insurance (c. 50) is a consolidating Act of 275 sections covering all kinds of insurance. Part IV, relating to fire insurance, is substantially the same as the draft Act prepared and recommended by the Conference of Commissioners on Uniformity of Legislation in Canada, except that the commissioners' draft of statutory condition 17 has not been adopted. Part V, relating to life insurance, is the same as the draft Act prepared and recommended by the Conference of Commissioners.

Municipal Institutions.—The Municipal Amendment Act (c. 53) contains the usual annual amendments of the Municipal Act, and is followed by various other cognate Acts—the Municipal Franchise Act (c. 54), the Bonus Limitation Act (c. 56), an Act to amend the Local Improvements Act (c. 57), the Assessment Amendment Act (c. 59), an Act to amend the Public Utilities Act (c. 61), etc.

Ontario Temperance Act.—An Act to amend the Ontario Temperance Act (c. 65) contains some amendments of the principal Act, and authorizes the Lieutenant-Governor in Council to submit to the electors of Ontario "any question or questions as to the enactment of legislation repealing or amending this Act, or as to prohibiting, regulating, controlling or otherwise dealing with the sale, keeping for sale, having in possession or transportation of liquor in Ontario." Questions were subsequently

submitted to the electors, who voted in favour of the present Act as against a system of sale of liquor under government control.

Immigrant Children's Protection.—An Act for the better Protection of Immigrant Children (c. 70) provides for the supervision of societies or agents bringing children into Ontario and placing them in foster homes or as apprentices, etc.

8. PRINCE EDWARD ISLAND.

[It is hoped to publish this Summary in the next *Review*.]

9. QUEBEC.

[*Contributed by the* HON. MR. JUSTICE FABRE SURVEYER.]

Number of Acts passed—157; Public—87; Private—70.

This division is not strictly accurate, for a great many laws coming under the heading of Public Acts are merely to ratify contracts entered into between the Government and certain institutions, or to grant powers to the Quebec Streams Commission with regard to particular lakes or water-courses.

Provincial Bonds.—C. 2 makes all debentures or inscribed stock issued in virtue of Act 3, Geo. V, c. 6, and amendments thereto, after March 15, 1924, subject to the duties imposed by the Quebec Succession Duties Act.

Daylight Saving.—C. 15 authorizes the corporation of any municipality in the Province to order, by resolution of its council, the holding of a referendum to ascertain the opinion of the electors regarding the advancing of the standard time each year for the period determined by the council, the advance being of one hour. Such referendum shall be held at the same time as the general elections, or at any other time, as determined by the resolution. Only those persons shall be entitled to vote who possess such right under the law governing the municipality with regard to municipal elections, the form of the ballot only being different, if the vote is taken by ballot. The election is presided over by the returning officer, if held at the time of the general elections, or by the clerk of the municipality in other times, either of whom must make a report to the municipal council of the result of the voting as soon as he has added up the returns of the balloting or voting as the case may be.

The council of any municipality, for which the standard time has been advanced one hour consequent upon the holding of a referendum, may, after one year, order, by resolution, the revocation of daylight saving or the holding of a new referendum. Upon such new referendum to the electors, the procedure shall be the same, *mutatis mutandis*, as that above prescribed. In either case the municipal council passes a second resolution requesting the Lieutenant-Governor in Council to change or restore the standard time, as the case may be.

Elections.—By c. 16 no returning officer, whenever a nomination paper and the requisite deposit have been remitted to him before two o'clock in the afternoon of the day fixed for the nomination of candidates, may reject such nomination paper for the sole reason that he had not time, before such hour, to examine it, to count the amount of the deposit or to administer the oath. Every printed advertisement, prospectus,

placard, poster, pamphlet, handbill or dodger having reference to any election shall bear upon its face the name and address of its printer. Failure to print such name and address shall expose the printer and distributor of such matter to a fine of $500, or, upon failure to pay the fine, to imprisonment for one to three months.

Agents-General for the Province.—C. 18 provides for the retirement on a life-pension equal to two-thirds of his salary of the Agent-General of the Province in the United Kingdom or in the Kingdom of Belgium, who resigns his office after twenty-five years' service, or who after eight years of office becomes permanently infirm so as to be prevented from usefully performing his duties. After a longer period of service, the pension may equal the agent's full salary.

Public Health.—By c. 20 the Director of the Provincial Bureau of Health shall, every year, before the 1st of March, make a compilation of births, marriages and deaths, based on the information obtained in virtue of the following sections of the Act.

Whenever, after investigation, it be established by the Director of the Provincial Bureau of Health:

(*a*) That it is necessary or advantageous for two or more municipalities, on account of their geographic situation and for the sake of their future development, to perform jointly certain drainage works or works for the distribution of water, whether for reasons of public health or well-being or for reasons of economy; or

(*b*) That any portion whatsoever of the inhabited territory of a municipality does not benefit in an effectual and satisfactory manner from the municipal drainage and water distribution works or systems; or

(*c*) That the drainage and water distribution services of any municipality have become insufficient for the protection of the public and of the property, or for purposes of public health and well-being;

the Director, one or more of such municipalities, or any interested elector who is the owner of real estate, may apply to the Quebec Public Service Commission which, after investigation and in conjunction with the Director of the Provincial Bureau of Health, shall order that such a state of things be remedied, choose the source of water-supply, determine the nature of the works to be executed, order their execution, fix the time and the manner of their execution, and, in the case of works common to two or more municipalities, apportion the cost of such works and the expenses of maintenance and operation thereof, and determine the manner of payment.

Tuberculosis and Infantile Mortality.—By c. 21 the Director of the Provincial Bureau of Health shall, under the direction and control of the Provincial Secretary, take the necessary steps to provide for the establishment and maintenance of anti-tuberculous and puericultural dispensaries and to put into operation any other means calculated to attain the proposed objects, the amount allowed for such expenses being $100,000 yearly, for a period of five years.

Succession Duties.—By c. 23 the word "property" does not include the sum of money due by an insurer by reason of the death of the insured payable in this Province, if the contract was not made therein and if the insured never had his domicile therein. The duty leviable upon a legacy made in favour of a hospital belonging to a corporation whose principal place of business is in this Province shall be reduced by 50 per cent., if such hospital has at least fifty beds for the use of the poor.

Motor Vehicles. — C. 24 repeals and supersedes the Motor Vehicle Act contained in the Revised Statutes, 1909, and all amendments thereof.

Any person who operates a motor vehicle must be acquainted with the laws concerning circulation, able to drive a motor vehicle and familiar with the transmission and control systems thereof. A chauffeur must, in addition, be able to put again in running order a motor vehicle which has ceased functioning. The machinist in motor vehicles must, in addition, be able to construct an engine and the above mechanism, and to remake properly any part or piece of the engine or of its mechanism which is liable to break, to wear out or to loosen.

In the case of a chauffeur, the competency is established by an examination passed before a professor of a technical school, under the control of the Province, or before another examiner appointed for this purpose by the Minister and being himself the holder of a certificate of competency from such a technical school. If the examination has been successfully passed, a certificate of competency is issued by the examiner upon the payment of $3 by the candidate.

In the case of a machinist in motor vehicles the competency is established by following a course in automobile mechanism in a technical school under the control of the Province, and by passing an examination before one of the professors of such a school. If the examination has been passed with success, a certificate of competency is issued by the principal.

Special qualifications are required for autobus chauffeurs.

Gasolene.—By c. 25 no one may sell gasolene in this Province unless a licence therefor has been granted to him, on payment to the Bureau of a fee of $1, and such licence be in force. Such licence shall be signed by the Comptroller of Provincial Revenue.

No person may buy gasolene in this Province, for his own use or for that of his family, agent, employee, partner or employer, without paying a duty equal to two cents per gallon, imperial measure.

This Act shall not apply to a farmer, a fisherman, an industrial or other person, who buys gasolene for a purpose other than operating a motor vehicle, provided that a declaration to that effect be made by him at the time of his purchase, in the form and manner established by the Minister, and that the gasolene so bought be not used in operating a motor vehicle.

Lands and Forests.—By c. 27 the Cabinet may, upon the recommendation of the Minister, set aside certain tracts of the lands of the Crown to constitute permanent forest reserves, provided that they have been duly classified as lands for forest industries, either because they are unfit for cultivation or because their maintenance in a wooded state is necessary to regulate the flow of waters or for any other reason of public interest.

The cost of the system for the prevention of forest fires, whether effected directly or through an association, is to be borne entirely by the timber limit holder for his timber limit, and by the proprietor for the lands and timber cutting rights belonging to him.

The Minister may authorize timber limit holders and proprietors to form themselves into associations for protection against forest fires in order to work in common for the protection of the territories leased or belonging to them. Such associations shall, for the protection of such territories from fire, be bound to do all that the law and the regulations

of the Department of Lands and Forests require from the proprietors and timber limit holders.

The Minister is empowered, whenever, in his opinion, a fire on private land threatens to become a calamity or to extend to Crown lands, to enter upon such land and to use all measures deemed necessary to extinguish the fire.

The Minister may claim from the proprietor or occupant of such private land a portion of the expenses incurred in suppressing such fire equal to the difference between what the proprietor disbursed and what a prudent administrator would have spent in similar circumstances.

Any person charged with the duty of protecting the forests against fire may summon any male person of the age of at least eighteen years and at most fifty-five years to assist in extinguishing any forest fire. Such assistant is entitled to payment for his work, at the rate fixed from time to time by the Minister, and such payment shall be made according to the arrangements to that effect, entered into between the Minister and those authorized to look after the protection of the forests against fires.

In the forests constituted into permanent forest reserves, no clearance, no clean cutting, no extraordinary cutting whatever, and no sale of timber involving an operation beyond the figure for ordinary cutting provided by the plan of management, may be made without a special authorization from the Minister.

Public Lands.—By c. 28 every sale or grant of public land adjacent to the boundary line between Canada and the United States of America, or to the interprovincial boundaries between the Province of Quebec and the Provinces of Ontario and New Brunswick, entered into or made after February 15, 1924, carries with it, as of right, in favour of the Crown, the reservation of ownership in that part of such land lying within sixty feet of any such boundary line, and, in addition, the prohibition of erecting or executing on such part of land any buildings or works whatever, except in the case of a sale or grant for the purposes of the construction of railways, aqueducts, bridges, canals, ditches and other works of a public character, or of the works and the erection of the buildings necessary for their operation.

Dairy Products.—By c. 29 every person, company or society carrying on a butter or cheese factory shall be bound to engage a head butter- or cheese-maker who holds a certificate as an expert tester of milk and cream and a diploma or special permit as a butter- or cheese-maker, or both, according as butter or cheese or both are made therein.

Every person, company or society, carrying on a butter factory, shall be bound to classify the cream, convert the different classes of cream into butter separately, sell each class of butter separately, and distribute the proceeds of such sales among the patrons according to the quality and in proportion to the quantity of cream of each class supplied by each of them.

Mining Law.—By c. 31 every sum of money due to the Crown as a royalty shall be a privileged claim upon the moveables and immoveables of the debtor, ranking after law costs.

The privilege with respect to such claim shall subsist without registration during the twenty-four months next after the date of maturity of the debt.

Any prospector may serve a protest on the Department of Coloniza-

tion, Mines and Fisheries, or on any office for the registration of mining claims, against the legality of any claim, provided he do so before, or not later than fifteen days after, the recognition of the claim by the Department.

Every holder of a miner's certificate may mark out on the ground, one or more, but not exceeding five, square claims, with sides of twenty chains in length running northward and southward, and eastward and westward, each claim covering forty acres.

Municipal Affairs.—C. 32 creates in the Department of Municipal Affairs a bureau of inspector-auditors composed of competent persons appointed by the Lieutenant-Governor in Council, in such number and with such salary as he shall deem expedient, to visit, under the direction of the Minister of Municipal Affairs, the offices of the municipal councils in the Province, in order to ascertain whether:

(*a*) The books, registers and archives of such offices are correctly kept and in accordance with the law;

(*b*) The security for the secretary-treasurer is valid and sufficient;

(*c*) The public moneys are administered according to law;

(*d*) The laws respecting the revenues and expenses of municipal corporations are observed.

Public Charities.—By c. 48 the Cabinet may, upon the recommendation of the bureau of public charities, enter into an undertaking with any charitable institution, for the necessary number of years, to pay to it annually, out of the public charities' fund, an amount equal to that required for the payment of annual interest and the amount destined for the sinking-fund of the loan or loans which the said institution shall have contracted for the purposes of public charity, after agreement with the said bureau. If the contract is with a charitable institution directed by a religious community of the Roman Catholic faith, it must be approved of by the Ordinary of the diocese in which the said community is situated.

Notaries.—By c. 53 a deed received by a notary of the Province of Quebec, outside of the Province, is authentic when the object of the deed is an immoveable or real right within the Province, or when the domicile of the party or parties, or any one of them, is in the Province. Such deed, being authentic, makes proof of its contents, that is, of the obligations expressed in it, and of what is expressed therein by way of recital—if the recital have a direct reference to the obligation or to the object of the parties in executing the instrument—without any evidence of the signature or seal appended thereto, or of the official character of the notary being necessary, and they can only be contradicted upon improbation. Notaries have the right to take the proceedings necessary for a voluntary partition and for a voluntary licitation of property in which persons suffering legal incapacity or absentees have an undivided interest as co-proprietors, provided that all the other co-proprietors of age have agreed with the legal representatives of such persons or absentees to proceed in such manner.

Dentists.—C. 54 repeals and replaces the existing laws concerning dentistry and dental surgery.

Roads.—By c. 60 in cities, towns and villages, no matter what law governs them, the roads and streets shall have a width of at least sixty-six feet, English measure. But the municipal council may obtain from the Lieutenant-Governor in Council, in special and exceptional cases, per-

mission to open and maintain, or to allow to be opened and maintained, a street or road of width less than sixty-six feet, English measure.

This section shall not apply to the cities of Quebec and Montreal nor, in the other city, town or village municipalities, to roads and streets already opened or laid out before the fifteenth day of March, 1924.

Debentures.—By c. 63 a company, besides hypothecating, mortgaging and pledging its property to a trustee, may, for the same purpose, cede and transfer the said property to the trustee, with power, in the event of the failure of the company to fulfil the conditions of the trust deed, to take possession of the property ceded and transferred, to administer and sell it for the benefit of the bondholders.

Issue and Sale of Securities.—C. 64 does not apply to:

(*a*) The bonds and shares issued by a corporation or company whose shares or bonds are listed upon any incorporated stock exchange in Canada, or upon the Exchange (Bourse) of Paris, London or New York;

(*b*) The issue of shares and bonds by any company in favour of its shareholders or bondholders as dividends or as division of profits, or upon a reorganization, or upon any new issue whatsoever, or to the sale of shares or bonds made judicially or by an executor, an administrator, a sequestrator, an official receiver, a guardian, or a trustee appointed under judgment of a Court;

(*c*) Any isolated sale of any security by the owner thereof, or his representative, for the owner's account, such sale not being made in the course of repeated and successive transactions of a like character by such owner or on his account by such representative, and such owner or representative not being the underwriter of such securities.

No company may issue, sell, offer for sale or otherwise dispose of, in any manner, directly or indirectly, through an officer, an agent or any person, its bonds in this Province, unless it has previously transmitted to the Provincial Secretary a copy of the document incorporating it, of the by-law ordering the issue and sale of such debentures and various information regarding the financial standing of the company. Similar particulars is required before a company issues any share of its capital stock. This does not apply to the incorporation shares, nor to shares in a company whose letters patent limit the number of shareholders to twenty, exclusive of present and past employees, or forbid any appeal to the public to subscribe for shares. In the event of such formalities not having been accomplished, the company loses its civil recourse against purchasers of share or debentures for the purchase price thereof, and the directors of the company, who have participated in such infringement by their vote, are jointly and severally liable for such purchase price.

By c. 65, the company becomes liable, for each infringement, to a fine of not more than $1,000, failing payment of which, directors who have voted are liable to an imprisonment not exceeding three months.

Insurance.—By c. 66 insurance on the life of a child under ten years of age is limited to certain amounts varying according to the age of the child.

Adoption.—By c. 75 any person of the age of twenty-one years or over may, by petition to a judge of the Superior Court of the district in which he has his domicile, ask for authorization to adopt as his own child another person younger than himself, provided that the latter be not the wife, husband, brother or sister of the petitioner. He must have the consent of the child, if fourteen years old, of the latter's father

and mother, or of the survivor of them, of the guardian, if there is one, and in the case of an illegitimate child, of the parent having the care thereof. No consent but the child's is required if the latter be of age, or if other parties have neglected him, or left him in a charitable institution, for the two previous years. Additional notices or consents may be required by the judge. If the child is under fourteen he must have lived with the petitioner for the two preceding years, and the petitioner's conduct must have been good; the judge may, after investigation, allow the adoption if the child has been only one year with the petitioner. From and after the judgment granting the adoption, the natural obligations of the parents and guardian cease and are replaced by those of the adopting parents, to whom the adopted child owes obedience. The judgment may give to the adopted child the surname of his adopter. The adopted child succeeds to the adopter, and *vice versa*, in the same manner as lawful parent and child. A person resident out of the Province, who had been adopted according to the laws of one of the Provinces of Canada or of a foreign country possesses in the Province the same rights of succession that he would have had in the Province or in the foreign country in which he was adopted. A second adoption causes all the effects of the first adoption to cease, except as to the child's rights in property acquired by him during adoption.

10. SASKATCHEWAN.

[*Contributed by* R. W. Shannon, Esq., K.C.]

Acts passed: First Session: Public—55; Private—12. Second Session: Public—61; Private—6.

First Session.

Attachment of Debts.—No. 8 makes some amendments to the law on this subject. The Government of Saskatchewan may now be garnished not only for moneys due to permanent employees but also for moneys due to temporary employees, except those employed merely by the day. An important change has been made with respect to the exemption from attachment of the wages or salary of mechanics, workmen, labourers, servants, clerks or employees. Formerly the wages or salary of these persons was exempt to the extent of $75, unless the debt was for board or lodging. Now the amount of the exemption is:

(*a*) $75 in the case of a married person.

(*b*) $75 in the case of an unmarried person, widower or widow who is supporting either (1) one or more brothers or sisters, or (2) one or more children who are under the age of sixteen years or who, being over that age, are unable to support themselves, or (3) a dependent parent or parents, grandparent or grandparents;

(*c*) $40 in the case of all other unmarried persons, widowers or widows. Where, in addition to wages or salary, an employee receives board and lodging or the use of a house or any other thing of value, the judge may take that fact into account, and the exemptions above given will be reduced accordingly.

Homesteads.—Under the Homesteads Act, in the event of the death of the owner all documents affecting the homestead must be signed by the widow as well as the personal representative. Since in some cases the homestead may not be necessary for the maintenance and support

of the widow and children, and the withholding by the widow of her signature to a transfer or other document may cause inconvenience to the personal representative in the administration of the estate, the Act has been amended by the insertion of a new section, under which the personal representative or any creditor of the deceased owner may apply to a judge of the Court of King's Bench, on the ground either that the homestead is not necessary for the maintenance and support of the widow and children or that a sale is necessary for the administration of the estate, and the judge may dispense with the signature of the widow and permit the personal representative to deal with the property (No. 10).

Education of Blind and Deaf Children.—Under an Act to provide for the Education and Maintenance of Blind and Deaf Children (No. 25), the Minister in charge of the Bureau of Child Protection is given power—until adequate provision has been made for the education, care and maintenance within Saskatchewan of blind and deaf children—to make an agreement for the purpose with the Government of any other Province or with any society controlling a suitable institution.

Crop Payment Leases, Agreements of Sale and Mortgages.—By No. 28 an important change has been made in the Crop Payments Act with a view to increasing the protection afforded to lessors, vendors and mortgagees under crop payment leases, agreements of sale and mortgages. There has been a growing tendency on the part of lessees, purchasers and mortgagors to dispose of the share of the crop reserved to the lessor, vendor or mortgagee, and to protect the proceeds of the sale. The amendment aims at preventing this abuse by providing that from the moment of the sowing of the crop until delivery to or receipt by the lessor, vendor or mortgagee of his share, an undivided interest in the crop, to the extent of the share agreed to be delivered, shall vest in the lessor, vendor or mortgagee, and that until delivery the lessee, purchaser or mortgagor shall hold that undivided interest in trust for the lessor, vendor or mortgagee. The crop, however, remains at the risk of the lessee, purchaser or mortgagor until actual delivery. It is thought that the above amendment to the Act will have the effect of rendering liable to criminal prosecution a lessee, purchaser or mortgagor who converts to his own use the lessor's, vendor's or mortgagee's share of the crop. If an execution issues against any of the parties to a crop lease, agreement of sale or mortgage, the sheriff is given power to seize and sell the whole crop and divide the proceeds according to the terms of the lease, agreement or mortgage, or he may divide the grain and seize and sell the execution debtor's share.

The principal Act does not extend to a lease, agreement of sale or mortgage under which more than a one-half share of the crop is to pass to the lessor, vendor or mortgagee; but that Act is made to apply to leases of land and chattels and to agreements for the sale of land with chattels.

Diseases among Bees.—The Apiaries Act is new legislation and has been passed in consequence of the development of bee-keeping in Saskatchewan. It is designed to prevent the introduction of disease by requiring annual registration of bee-keepers and a declaration from them that they will not import into the Province any bees on comb, brood combs, extracting combs or any second-hand parts of equipment which have been used in an apiary outside the Province, unless accompanied by a certificate acceptable to the Minister of Agriculture showing

that the article imported is free from disease. The Act is also designed to assist in the control of disease among bees. All bees imported in hives or on combs are automatically quarantined, and the owners must not dispose of them, or of any honey or appliances, until permission is obtained from the Minister and the bees are declared free from disease. Authority is given to the Minister to order the destruction of the equipment of any apiary where bee diseases are found to exist (No. 32).

Marriages.—A revision and consolidation of the Marriage Act alters in several respects the law relating to this subject (No. 36). The interval between the issue of a marriage licence and the ceremony is restricted to three months. Where banns have been published, the marriage must take place not later than two months after the second Sunday of publication. The procedure for the proclamation of banns is set forth in greater detail in the new Act. In future the ceremony must not take place between 10 p.m. and 6 a.m. unless the clergyman is satisfied that exceptional circumstances exist which render necessary the performance of the ceremony during these prohibited hours.

If either of the parties to an intended marriage is under the age of eighteen years, the consent of both the father and mother is necessary; if a party is over the age of eighteen but under twenty-one years, the consent of either the father or the mother is sufficient. In any event the consent must be in writing. When a parent refuses to consent to the marriage of a minor over eighteen years of age, the minor may make an application to a judge of the Court of King's Bench or of the District Court, who may, in his discretion, grant an order dispensing with such consent; but the decision of the parents is final when the minor is under the age of eighteen years. The issue of a licence to any person under the age of fifteen years is prohibited, and it is also provided that no person shall perform the marriage ceremony if he knows or is informed that either of the contracting parties is under that age.

Landlord and Tenant.—By No. 37 some important new provisions have been inserted in the Landlord and Tenant Act. The following goods and chattels are declared to be not liable to seizure by distress by a landlord for rent: (*a*) the beds, bedding and bedsteads (including perambulators or cradles) in ordinary use by the debtor and his family; (*b*) the necessary and ordinary wearing apparel of the debtor and his family; (*c*) one cooking stove with pipes and furnishings, one other heating stove with pipes, two towels, one wash basin, one kitchen table, one tea kettle, one teapot, one saucepan, one frying pan and for each member of the family the following, namely, one chair, one cup and saucer, one plate, one knife, one fork and one spoon; (*d*) all necessary fuel, meat, fish, flour and vegetables for the ordinary consumption of the debtor and his family for thirty days; (*e*) the tools or agricultural implements used by the debtor in the practice of his trade or occupation, to the value of $300; (*f*) one axe, one saw.

Other new sections deal with the priority of a landlord for rent in the event of a receiving order or assignment being made against or by the tenant under the Bankruptcy Act (Dominion). The landlord is entitled, if there are sufficient assets, to an amount not exceeding three months' rent accrued due prior to the date of the receiving order or assignment, and he ranks as an ordinary creditor for all surplus rent accrued due at that date. The landlord, however, is not entitled to any rent for the unexpired term of the lease unless the trustee actually

occupies the premises after the date of the receiving order or assignment. The trustee may either continue in occupation of the premises or may disclaim the lease, as he thinks fit, but if he takes possession, he must give the landlord three months' notice or three months' rent in lieu of notice. The landlord's preferential claim for rent was covered until October 1, 1923, by the Bankruptcy Act (Dominion), when the section dealing with the matter was repealed. Hence the foregoing legislation, which is made retroactive and declared to have been in force since October 1, 1923.

Neglected and Dependent Children.—A number of amendments have been made to the Children's Protection Act by No. 44. A parent is prohibited from surrendering the custody of a child to any children's aid society without having first obtained the consent in writing of the Superintendent of Neglected and Dependent Children, and any surrender without such consent is declared to be null and void. This provision is intended to avoid indiscriminate throwing over of children to societies. A number of sections have been added to the Act with the intention of keeping a tighter grip on the matter of transferring children, and of preventing baby farming. These sections deal with maternity, nursing and other homes in cities and towns and provide for notification being given to the Superintendent of Neglected and Dependent Children on the establishment of such places, and for the inspection thereof by the mayor of any city or town, the Superintendent or any other person appointed for the purpose. The transfer of a child under seven years of age, unless to its parents, is prohibited without the knowledge and consent of the superintendent. Advertisements by any proprietor of such premises that he or she will adopt a child or children are prohibited, and penalties are imposed for an infringement of any of these provisions.

Liquor Plebiscite.—Under the provisions of No. 50, the electors will be asked on July 16, 1924, to state at the polls whether or not they are in favour of prohibition in Saskatchewan, and whether, in the event of a Government liquor system being established, they would favour (*a*) sales in sealed packages of all spirituous and malt liquors, or (*b*) sales in sealed packages of all spirituous and malt liquors and also sale of beer in licensed premises.

Second Session.

Vital Statistics.—No. 6 is a revision and consolidation of the Act respecting the registration of births, marriages and deaths, which, by the way, also provides for the registration of divorces. The Act contains very little fresh matter, but the following new provisions are worthy of notice. Every clergyman, minister or other person who publishes banns for the solemnization of a marriage must now mail to the Registrar-General a certificate of the publication of banns. Another amendment provides that, upon any person, who claims to be one of the parents of a child born out of wedlock, producing to the registrar a statutory declaration by both parents setting forth certain particulars as to their marriage and that it is their desire to have the children registered as their lawful issue, it is the duty of the registrar to register the child, whether dead or alive, as the lawful issue of such parents, or, if the birth has been already registered, to make the proper entries on the records. No record of a birth or of a death is now required in the case of a child which has not advanced to the sixth month of uterogestation.

District Courts.—The terms "interlocutory order, judgment or decision" and "final order, judgment or decision" have been discarded in the section providing for appeals from the district court in civil matters. Under the new section an appeal may be taken, in the case of an order, judgment or decision of a judge sitting in chambers, to a judge of the Court of King's Bench in chambers, and, in the case of any other order, judgment or decision, to the Court of Appeal (No. 11).

Surrogate Courts.—Two new sections have been inserted in the Surrogate Courts Act (No. 12). Where a surety for an administrator dies or becomes insolvent or where the security furnished becomes inadequate or insufficient, the judge may, of his own motion or on the application of any person interested, require other or additional security to be furnished, and if the same is not furnished as directed he may revoke the grant of administration. Provision is also made for the substitution of securities where a surety for an administrator desires to be discharged from his obligation or where an administrator desires to substitute other security.

Reciprocal Enforcement of Judgments and Awards.—This is a model Act prepared by the Commissioners on Uniformity of Legislation in Canada. It provides for the enforcement in Saskatchewan of judgments obtained in other provinces or territories of the Dominion of Canada. After registration of the judgment in the proper Court in Saskatchewan, it has the same force and effect and proceedings may be taken thereon as if it had been a judgment originally obtained or entered up on the date of registration in the Court in which it is registered. Power is conferred upon the Lieutenant-Governor, on being satisfied that reciprocal provision has been made or will be made by any other province or territory of the Dominion of Canada for the enforcement within that province or territory of judgments obtained in the Court of King's Bench or in any district Court of Saskatchewan, to direct, by order in council, that the Act shall apply to that province or territory (No. 14).

Surveys.—No. 17 is a consolidation of an Act respecting the Survey of Land, containing a few minor amendments in matters of procedure.

Companies.—Two new provisions have been inserted in the Companies Act, namely: (1) For the amount of any dividend which a company may lawfully declare payable in money, it may declare a stock dividend and issue therefor shares of the company as fully paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and the liabilities of the holders of such shares shall be reduced by the amount of such dividend. (2) Every deed which any person, lawfully empowered in that behalf by an extra-provincial company as its attorney, signs on behalf of the company, if such person seals with his own seal, is declared to be binding on the company in Saskatchewan and to have the same effect as if it were under the seal of the company (No. 18).

Insurance.—No. 20 is a consolidation of the existing statute law of the Province upon the subject of insurance, with the addition of considerable portions which are quite new. The Act is a lengthy one, consisting of 468 sections and divided into 18 parts. The first new provision of importance is one allowing service upon an insurer, whose head office is outside the Province, by serving the provincial superintendent of insurance.

Part IV. Fire Insurance.—This part is mainly a reproduction of a

model Act prepared by the Commissioners on Uniformity of Legislation in Canada.

Part V. Life Insurance.—This part consists of a model Act prepared also by the Uniformity of Law Commissioners, who had it before them for three consecutive years. It has already been adopted in most of the Provinces. The advantage of having the same text before the Courts of the different Provinces will be seen at a glance. The decisions in one Province will be authorities that may be followed elsewhere, and it is expected that in this manner an approach to uniformity of interpretation may be achieved.

Part VI. Automobile Insurance.—The provisions of this part were enacted first in 1923. It also has been adopted in most of the Provinces.

Part VII. Accident and Sickness Insurance.—The same remarks apply here as in the case of Part VI.

Part X. Weather Insurance.—This branch of insurance is quite a recent development, and Part X is accordingly entirely new.

Part XII. Fraternal Societies.—This also is a new addition to the Act. The old Act had very scanty provisions on this subject and these more elaborate provisions were much needed.

Part XIII. Mutual Benefit Societies.—This part is also new. Heretofore many bodies have been constituted under the Benevolent Societies Act, and have not been subject to the control of the insurance department, nor have they been restricted in the manner of their doing business as insurance companies are. Hereafter they must be incorporated under the Insurance Act, and the public will be protected from transactions in the nature of insurance made without the guarantee for stability and solvency required of insurance corporations.

Part XIV. Reciprocal or Interinsurance Exchanges.—This part, which is to come into force on proclamation, is also new. It deals with a species of mutual insurance by large concerns which contribute to a fund administered by a trustee who is called an attorney. This business has rapidly developed of late years in the United States, and has spread to Canada, so that it has become necessary to deal with it.

Bread Sales.—This is a new Act. Every person conducting a bakeshop must hold a municipal licence and no licence can be issued until the medical health officer certifies that the municipal regulations have been complied with. No person is allowed to make bread for sale, except in loaves weighing, net weight, unwrapped, if weighed within twelve hours after baking, twenty ounces or forty ounces or sixty ounces, avoirdupois, and except fruit loaves weighing not less than sixteen ounces, avoirdupois, when weighed under the above conditions. Scales and weights must be kept in every bakeshop (No. 31).

Public Health.—No. 44 is a consolidation of the Public Health Act, which had previously been amended extensively. The new Act contains various minor amendments. There is only one new provision. This empowers the Minister of Public Health, in case of an epidemic or threatened epidemic in any part of the Province and upon the request of the local board of health or medical health officer, to prohibit, for such period as is deemed advisable, the holding of such public meetings or gatherings as in his opinion may be necessary.

Conditional Sales.—A new provision has been inserted in the Conditional Sales Act (No. 48). When the subject of a conditional sale or bailment is a motor vehicle, the writing evidencing the sale or bailment

or a true copy thereof, duly authenticated, must be registered, within thirty days from the actual delivery of the vehicle, not only in the district in which the buyer or bailee resides—which is the usual procedure—but also in the office of the registration clerk for chattel mortgages in the registration district of Regina if the buyer or bailee does not reside in that district. The same section also prohibits the removal out of Saskatchewan, without the written consent of the seller or bailor, of a motor vehicle which is the subject of a sale or bailment evidenced by an instrument registered as above required.

Threshers' Liens.—This short though important Act has been amended and consolidated, and the following new provisions are worthy of notice. If the grain threshed is sold and delivered to a *bona fide* purchaser, and removed from the possession of the original owner and from the premises and vicinity where it was threshed, the thresher's lien ceases to exist, but it becomes a first charge on so much of the price as may remain unpaid when notice of the lien is given to the purchaser. If the grain threshed is delivered by the owner to any person who advances money upon the security thereof, all advances made by such person *bona fide* before receiving notice of the thresher's lien take priority over the lien. Any person who has a valid and subsisting lien or charge upon any grain, other than a thresher's lien, upon furnishing evidence of the lien to the person who threshed the grain, is entitled to receive from him a statement setting forth the number of bushels of grain threshed, the kind of grain and the price per bushel charged for threshing or the rate per hour and the number of hours for which payment is claimed in respect of such grain (No. 50).

Liquor.—The Liquor Act, 1925 (No. 53), is the result of a plebiscite taken last summer when prohibition in Saskatchewan, after a short stay, was voted out by a large majority. The Act provides for the sale of liquor under government control. The Province is divided into 121 liquor districts—eight "city districts"—and 113 "numbered districts," *i.e.* rural districts. Machinery is provided for the establishment in the city districts of stores for the sale of liquor or for the sale of beer only or both and for the establishment in the numbered districts of stores for the sale of beer only. All stores are in charge of "vendors," who are employees of the liquor board created by the Act. Any person may purchase one day two gallons of beer or any other malt liquor, one gallon of wine and one quart (forty fluid ounces) of any other liquor; but the board has authority to make regulations, which are subject to the approval of the Lieutenant-Governor in Council, increasing the quantity of beer or wine that may be sold at any one time to one purchaser to an amount not exceeding ten gallons and increasing the quantity of any other liquor that may be so sold to an amount not exceeding two gallons. In case of a purchase of such increased quantity no further purchase can be made by the same person for the next following fourteen days. Cash must be paid for all purchases. Vendors are prohibited from selling liquor to any person under twenty-one years of age, or to one who is under the influence of liquor or who, to his knowledge, habitually uses liquors to excess, or to an interdicted person, or, for a period of two years, to a person convicted of an offence against the Act. Physicians, druggists, dentists and veterinaries may purchase, under permit, restricted quantities of liquor for use in the practice of their professions. Druggists are permitted also to keep limited supplies of liquor for sale on the

prescriptions of physicians, and physicians residing in outlying districts may be permitted to sell liquor for medicinal purposes. Limited supplies of liquor may also be purchased, under permit, by manufacturers for *bona fide* use in the mechanical arts or for manufacturing and other purposes, by the governing boards of hospitals, and by educational institutions for heating, testing, mixing, compounding and experimental purposes. Any recognized society, association, club or other duly constituted organization may be permitted by the liquor board to purchase liquor for a banquet, but not exceeding one quart of beer or one pint of wine for each individual in attendance. No more than two permits can be granted to any organization in any one year. The Act does not prevent the use of wines for sacramental or other religious purposes in accordance with the rites of any church, nor does it interfere with the right of the authorities or clergy of any religious body or church to import from without the Province wines for sacramental purposes.

11. NEWFOUNDLAND.

[*Contributed by* P. J. SUMMERS, ESQ., K.C., *Deputy Minister of Justice.*]

Milling.—C. 1 confirms the contract entered into between the Government and the Newfoundland Milling Company, whereby the Company agrees to erect in the Colony a flour-mill of a capacity of 1,000 barrels per day, together with an elevator, cleaning house, storage warehouse and cooperage, at a cost of $650,000, within twelve months and to have the same in operation by January 1, 1927.

The Company is to employ Newfoundland labour, except skilled labour, in the conduct and operation of the mill, and to manufacture flour equal to the imported article. The Government grants the Company the exclusive right for twenty years to erect and operate flour-mills, and gives a preference or protection of 25 cents per 196 pounds on customs duties.

The Government agrees to admit for twenty years free of duty all materials, etc., necessary for the original installation and for the extension of the mills.

If the Company fails to comply with the clauses respecting the erection and operation of the mills and the employment of Newfoundland labour, the Agreement is declared void.

Power and Paper Industry.—C. 2 is an Act for the Confirmation of an Agreement between the Government and the Gander Valley Power and Paper Company, Limited. Ss. 2, 3 and 4 of the Contract grant exemption to the Company from municipal taxation on all its property, from taxation on stock and other securities of the Company, and from all taxation until June 30, 1974, of every kind other than duties on goods not otherwise exempt. All material, plant, tools, machinery, etc., for the construction, original installation and further extension are also exempt from taxes and duties until June 30, 1954; and all materials not procurable in Newfoundland of quality and at prices satisfactory to the Company, for the manufacture of the products of the Company and its subsidiary Companies, are exempt from duty for a period of fifty years.

The Company has power to make regulations to protect its property from fire, and such regulations when approved by the Governor in Council shall have the force of law. Under the Agreement, in addition to the exemptions from taxation the Government undertakes to grant

to the Company, at 30 cents per acre, any Crown lands not held under any lease or licence, which may be required by the Company as flowage rights, up to 10,000 acres. The Company is given the right of entering on private property under the usual arbitration clause.

Wherever the development works of the Company make it necessary, the Company may alter the course and gradients of the Newfoundland Railway, and in that case must rebuild the altered part at its own expense and according to the specification of the Railway Contract of 1893. The Company undertakes to begin construction work upon its plant within three years from August 16, 1924, and to expend $5,000,000 in connexion with the operations of the Company within six years from the said date. Failure to begin such work or expend such money renders void any grant of Crown lands given to the Company under the provisions of ss. 2 and 3 of the Agreement.

The Government agrees to introduce legislation so that the erection and completion at or near the Gander River within six years of a 200-ton paper-mill shall be regarded as a performance of the conditions in the various timber licences held by the Company. The Government agrees to appoint a fire-warden upon the nomination of the Company. S. 17 deals with fishing rights, dams and log sluices, navigation and preservation of the waters.

The Company agrees to give to the Newfoundland Railway an option to purchase surplus electric power developed by it. Under s. 19 the Government agrees to grant a further term of ninety-nine years, if this agreement is not earlier determined under Clause 14. An arbitration clause is provided to deal with any disputes arising under or in connexion with the Agreement. Under s. 22 the Company agrees to employ Newfoundland labour with the exception of such skilled labour as shall not be ordinarily obtainable in Newfoundland.

Boy Scouts. — C. 6, which is an Act to further and protect the activities and interests of the Boy Scout Association in the Island of Newfoundland and its Dependencies, makes it unlawful for any person not a Boy Scout to wear publicly the uniform, badge or emblem of the Association ; and for any Boy Scout to seek to exercise authority by virtue of his uniform or badge, otherwise than in accordance with the Rules of the Association. A penalty of $10 is provided on summary conviction, or in default one week's imprisonment.

King's Printer. — By c. 8 an Act respecting the Department of Public Printing and Stationery, the Governor in Council is given power to appoint a King's Printer, who shall be a practical printer or publisher of five years' standing, and such clerks as are necessary for the proper control of printing and stationery.

The King's Printer is placed under the Department of the Colonial Secretary and has the management and control of the service to which the Act relates, such as the purchase of stationery for the different departments of the Government, the binding and publishing of the *Statutes* and *Official Gazette* (to be known as the *Newfoundland Gazette*), and of all official and departmental reports, forms, documents, commissions and other papers. The words "Newfoundland Gazette" are substituted for the words " Royal Gazette " whenever the latter appear in any statute or regulation. All proclamations, official notices, orders in council, regulations and other similar documents requiring publication, shall be published in the *Newfoundland Gazette*.

The Deputy Head of each Department and the Clerk of each House of the Legislature shall supply estimates of stationery required to the King's Printer in each year, and on his report the Colonial Secretary shall ask the Legislature to vote the sum required annually.

The King's Printer is to supply a monthly statement to the Auditor-General with accounts and vouchers of all stationery supplied to each Department and the Legislature.

The Auditor-General is to take stock of stationery annually or more frequently, and to lay before the House each year an account showing the value of stock, the amount expended in stationery, printing and binding, and the amounts charged against each Department and the Legislature.

Alcoholic Liquors.—C. 9 repeals the Prohibition Law of the Colony passed in 1916, under which the importation, manufacture, sale and possession of intoxicating liquor was prohibited except for medicinal purposes and on order of a medical practitioner.

Under the present Act the Governor in Council has power to appoint three persons to be a Board of Liquor Control, who shall exercise no other calling, trade or profession. The Board is invested with power to import, possess, sell and purchase alcoholic liquor; to occupy buildings for the purpose of its business; to borrow money; to deal in negotiable instruments; to prevent contraventions of the Act; and to appoint and dismiss all necessary officials and servants. No member of the Board may individually, or as a member of a partnership, or as a shareholder in a company, have any interest in the manufacture of alcoholic liquor.

The Governor in Council may make regulations respecting loans, book-keeping and stocktaking of the Board, and the Board may make regulations respecting its internal economy. All money collected by the Board is to be deposited in some bank indicated by the Minister of Finance and Customs and handed over to that official on demand. The Board must account to the Minister when required.

The Board may have three stores and warehouses in the electoral district of St. John's, and if a majority of the electors in any other district ask for it, a branch for the sale of beer and wine only, or for the sale of alcoholic liquors in addition.

Alcoholic liquor cannot be consumed in any branch. In addition to the purchase of alcoholic liquors in branches, it may be purchased on passenger trains and steamers and in tourist hotels for use at meals. The Board is empowered to grant permission to hotel proprietors, stewards on steamers and trains, and to persons in charge of banquets for the sale of beer and wine.

No person may import alcoholic liquor but the Board, or manufacture any without the permission of the Board. No person except the Board or its agents shall sell alcoholic liquor. Such liquors may not be sold before 9 a.m. or after 6 p.m., or on Saturday after 1 p.m.; nor on Sundays or public holidays; nor except for cash; nor more than one 24-ounce bottle to any one person in one day; nor except in bottles wrapped or corked so as to prevent fraud, and bearing labels or marks so as to identify it as sold by the Board. Liquor must not be sold to persons under twenty-one years of age; to persons convicted of drunkenness; to any Esquimaux or Indian; to any constable on duty, or to inmates of public or charitable institutions.

It is declared a violation of the Act to possess a still; to consume

liquor in any public place ; to be drunk therein ; to sell to a drunken person ; to permit drunkenness to take place in any house by the owner, tenant or occupant.

For violation of the above, offenders are subject to imprisonment without the option of a fine for three months for a first offence.

The sale of wine and beer on passenger trains and steamers is permitted to *bona fide* travellers, to be consumed at meals. Proprietary and patent medicines are permitted to be sold, provided such medicines do not contain a greater quantity of alcohol than the amount required as a solvent or preservative. If used as a beverage the sale may be prohibited.

Practitioners of medicine, surgery or obstetrics may purchase alcohol in any quantity, and druggists may keep any quantity for use in their business, but it must be purchased in both cases from the Board.

Every person who violates any provision of the Act for which no penalty is prescribed shall be liable to a fine of not less than $10 and not more than $200 for a first offence, or imprisonment in default from one to three months ; and for a second or subsequent offence of not less than $200 and not more than $1,000, or imprisonment in default for not less than three and not more than six months.

The Board may authorize searches and any person so authorized may, if necessary, enter by force any shop, building or place and seize any alcoholic liquor found therein. Powers are given to constables to enter any place where alcoholic liquor is thought to be manufactured or sold and to take away samples ; and to enter branches of the Board to see if the Act is being complied with.

Prosecutions under the Act are to be commenced in the name of the Board and to be tried summarily before a Stipendiary Magistrate. An appeal is allowed to either party by giving ten days' notice, and to the defendant on giving sufficient sureties to prosecute the appeal and to abide by the judgment of the Court. No conviction or order may be quashed for want of form, provided there is a valid conviction. No writ of *quo warranto*, *mandamus*, injunction, *certiorari* or prohibition may be granted or issued respecting anything done under the Act.

An interpretation section is provided which defines, *inter alia* :

1. " Alcoholic Liquor " to mean and include any alcoholic, spirituous, vinous, fermented or malt liquor, or combination of liquors and mixed liquor, and all drinks or drinkable liquids and solids, patented or not, containing 3 per cent. and upwards of alcohol by volume.

2. " Beer " to mean any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops in drinkable water.

3. " Wine " to mean any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits (grapes, apples, etc.) or other agricultural product containing sugar (honey, milk, etc.).

Disembarking of Paupers.—C. 10 is an amendment of c. 73 of the Consolidated Statutes (Third Series) respecting the Disembarking of Paupers to enable the Minister of Justice to make an expulsion order respecting persons not born in the Colony. Such order may be made if the Minister considers the subject of it a person without means ; a lunatic ; a convicted criminal ; or an undesirable person. The master of the ship, or the master of any ship owned by the same person, is made liable for any expenses incurred by the Colony for maintenance,

transportation, etc. If such master fails to comply with the provisions of the Act he shall be declared guilty of an offence and shall be liable to a fine not exceeding $500 or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.

Magistrates. — Magistrates appointed for a particular locality had been accustomed to sit as justices of the peace outside their immediate territorial jurisdiction, and to hear and determine criminal matters over which they had jurisdiction as stipendiary magistrates but not as justices of the peace. C. 11, which amends c. 86 of the Consolidated Statutes (Third Series) respecting stipendiary magistrates and justices of the peace, makes every magistrate *ex officio* a stipendiary magistrate and justice of the peace for the Colony, so that he may have jurisdiction in any part of the Colony.

Game and Fisheries.—C. 15 codifies the laws dealing with Game and Inland Fisheries. The Governor in Council shall appoint a Board of not more than twenty members, of whom five shall be a quorum, and of which the Minister of Marine and Fisheries shall be President. The Board may appoint a secretary and fix his salary.

The Board is directed to take measures to preserve and protect wild or migratory birds, deer, moose and other game, and to protect and improve the Inland Fisheries; to appoint wardens and other necessary servants; and to issue licences and make regulations. Its accounts are subject to audit by the Auditor-General. The Board shall pay all moneys received into an approved bank to its credit to pay its wardens and other officers, and the balance, if any, as the Governor in Council may direct. The Board may take any game or fish at any time for the purposes of exchange or presentation to the authorities, or game societies of other countries.

The Board is empowered to make regulations subject to the approval of the Governor in Council for the management of the sea-coast and inland fisheries; to prevent obstructions and pollution of inland waters; limitation or prevention of fishing in inland waters, and generally for the preservation, propagation and protection of all game and fish; for the issue of licences; imposition of fees; creation of reserves and close seasons and prescribing penalties for breaches of such regulations. Penalties may be sued for summarily, one-half going to the informer and the other half to the Board. All implements and fish or game used, taken or killed in violation of the Act, shall be confiscated. Powers of search are given to magistrates, justices of the peace, police, customs or game officer without warrant. Penalties must be sued for within two years. An appeal from any conviction is granted to either party by giving ten days' notice, and to the defendant on giving sufficient sureties to prosecute the appeal and abide by the judgment of the Supreme Court.

Married women concerned in any breach of the Act are liable as if they were unmarried and principals, but the husband shall not be liable. In the case of married women the husband's property is liable. Magistrates may dismiss proceedings if they consider the offender actually needed the fish or game as food for himself or family.

Finance.—By c. 20 the Governor in Council is authorized to raise a loan not exceeding $6,000,000 at 5 per centum per annum, payable on or before July 1, 1949: $1,600,000 of this loan is to meet the deficit in the accounts of 1923–4; $2,000,000 in building roads and highways;

other sums for purchasing railway rolling stock; new steamer and other requirements of the Newfoundland Railway, including a plant for coal and food. The stock is to be issued so as to be available for sinking fund, under 58 Vict., c. 13, and to be exempt from taxation.

Imports Tax.—C. 21 levies a tax of 5 per cent. on the invoice cost, with freight and customs duty added, of imported goods, with the exception of flour, which pays 3 per cent.; and excepting articles used in the manufacture of goods paying an excise tax, which pay 2½ per cent.; and articles used in the manufacture of all other goods, of 3 per cent. These taxes are payable through the Customs and the provisions of the Customs Act and the Revenue Act apply.

Goods *in transitu*, exempted by the Legislature, other than the Revenue Act; materials for repair, upkeep and operation of pulp-mills; certain products of Greece and Spain; kerosene oil, gasolene, oil clothes and rubber boots, and the articles named in items 161–7, 172, 184, 187, 205, 210 and 211 of the Revenue Act of 1905, shall not be subject to these taxes.

Customs Duties.—C. 23 places flour and gasolene on the exempted list, and reduces the tax of 75 cents per gallon on spirits *in transitu* to 50 cents per gallon. The Governor in Council is given power when the financial condition of the Colony warrants same to reduce the duties on molasses, kerosene oil, beef and pork.

12. BERMUDA.

[*Contributed by* Sir Reginald Gray, K.C., *Speaker of the House of Assembly.*]

Acts passed—35.

Investment.—No. 6 provides for the investment of £30,000 out of the surplus funds in the Treasury in addition to the amounts invested under the authority of the Act of 1921 (No. 58).

Bonus on Salaries.—No. 13 grants a temporary bonus of 25 per cent. on all public salaries below £500, and of 20 per cent. on all public salaries of £500 and upwards. This was considered preferable to making a permanent increase of salaries at the present time.

Public Health.—No. 14 provides for the appointment of a Director of the Medical and Health Department at a salary of £1,000, plus travelling expenses from and to the United Kingdom.

Railway.—No. 17 was passed to authorize the incorporation of a Company to construct and operate a railway for the conveyance of passengers and freight, and on compliance with the prescribed conditions the Company is to have a franchise for forty years.

Technical Education Scholarships.—No. 30 makes provision for four such scholarships, each of the value of £125 tenable for a term not exceeding four years at some educational institution abroad approved by the Governor in Council, one of such scholarships being open for competition annually.

III. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* Sir Robert Garran, K.C.M.G.]

Public Acts passed—61.

The year 1924 is remarkable for the large number (11) of measures directed to the encouragement and assistance of the primary and secondary industries of the Commonwealth. Apart from these enactments, the outstanding Acts of the year are the Bankruptcy Act, the Commonwealth Electoral Act, and the Seat of Government (Administration) Act. The bulk of the remaining legislation consists of financial measures (including 16 loan, supply or appropriation Acts).

Trade and Commerce.—The Dairy Produce Export Control Act (No. 38) provides a means of control of the export, and the sale and distribution after export, of Australian butter and cheese (referred to in the Act as " dairy produce "). It follows the lines of the Dairy Produce Export Control Act, 1923, of New Zealand.[1]

The control is placed in the hands of the Dairy Produce Control Board, consisting of one government representative, eleven representatives of butter and cheese factories and one representative of the sellers of dairy produce out of the Commonwealth. Provision is also made for an Executive Committee of the Board which has such powers and functions of the Board as the Board thinks fit, and for a London agency of the Board to keep the Board advised as to current prices of dairy produce, and as to other matters relative to the disposal of Australian dairy produce in England and elsewhere.

Power is given to prohibit the export of dairy produce (other than export to the East) except under licence. The Board has power to accept control of any dairy produce placed under its control for the purposes of the Act. In respect of dairy produce placed under its control, the Board has full power to deal with it in any manner it thinks fit.

Existing contracts for the sale of dairy produce made before September 1, 1924, are preserved.

Contracts for the carriage of dairy produce by sea to places beyond the Commonwealth can only be made by the Board, or with the authority of the Board. Any contract made, whether before or after the constitution of the Board, otherwise than in accordance with the Act, is void.

Where the Board has accepted control of any dairy produce it is deemed to be the agent of the owners of the dairy produce.

In the exercise of its powers and functions the Board is likely to become liable for certain expenditure. To meet that liability provision is made by the Dairy Produce Export Charges Act (No. 39) for the levy of charges on all butter and cheese exported from the Commonwealth. The rate of the charge on butter is one-eighth of a penny per pound, and on cheese one-sixteenth of a penny per pound. Those rates may be reduced by regulation.

The moneys so collected are paid into the Dairy Produce Export Fund, where they are available for the use of the Board.

The Dried Fruits Export Control Act (No. 40) and the Dried Fruits Export Charges Act (No. 41) make corresponding provision in respect to dried fruits (currants, sultanas and lexias) as are made in respect of

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. ii, p. 114.

dairy produce by the Dairy Produce Export Control Act and the Dairy Produce Export Charges Act.

The controlling body in the case of the dried fruits is the Dried Fruits Control Board, consisting of one Government representative, four representatives of the growers and two members with commercial experience.

There is no London agency of the Dried Fruits Control Board, and the power to prohibit the export of dried fruits extends to export to the East.

The rate of the charge imposed on the export of dried fruits is one-eighth of a penny per pound. That rate may be reduced by legislation.

The Meat Industry Encouragement Act (No. 55) aims at the encouragement and improvement of the meat industry of Australia. An Australian Meat Council is constituted, consisting of one representative of the Commonwealth, one representative of each State which has passed legislation providing for the encouragement and improvement of the meat industry and for representation on the Council, sixteen representatives of meat producers, and seven representatives of meat works established in Australia.

The Council is the medium of encouragement and improvement of the industry and has power (*a*) to appoint officers; (*b*) to make recommendations in relation to the administration of any Act relating to the export and interstate trade in meat and meat products; (*c*) to advise the Minister or a State Meat Advisory Board in relation to matters referred to it by the Minister or the Board; (*d*) to determine and declare the rates at which assessments on cattle and sheep owners may be made under the laws of the States or the Northern Territory, and to demand and receive the sums resulting from the assessments; (*e*) to advise the Minister as to measures calculated to encourage or improve the meat industry; (*f*) to arrange for expenditure of Council moneys; (*g*) to appoint an Executive Committee and delegate its powers to the Committee; and (*h*) to do such other things as are prescribed by regulation.

The Hop Pool Agreement Act (No. 9) authorizes the execution, by or on behalf of the Commonwealth, of an agreement between the Commonwealth and the Tasmanian Hop-growers' Pool, Limited, under which the Commonwealth will advance to the Company the sum of £24,500, and the Company will agree to fulfil certain conditions laid down in the agreement.

The objects of the Pool are (*inter alia*) to purchase, sell, treat, and deal in any way with hops, the produce of the Commonwealth, and to advance moneys to hop-growers in Tasmania for their accommodation or the promotion of the industry.

The moneys are to be advanced by the Commonwealth under the agreement for the purpose of assisting the Company in carrying out the objects of the Company.

The Canned Fruit Bounty Act (No. 2) provides for the payment of bounties on the production and export of apricots, peaches, pears and pineapples canned in the Commonwealth between November 1, 1923, and September 30, 1924. The bounty on the production is payable to the canner provided he purchases from the grower, at not less than the prices specified in the Act, and cans such varieties and quantities of fruit as the Comptroller-General of Customs directs.

The bounty on the export of canned fruit is payable to the canner

provided the fruit is prepared in accordance with the provisions of the Customs Act and the Commerce (Trade Descriptions) Act, and the fruit is approved at the time of canning as being suitable for export. Bounty on the export of any one kind of canned fruit may only be claimed in respect of 30 per centum of that fruit on which the bounty on production has been paid.

Payments in the nature of bounty on canned fruits paid on or after March 12, 1924, and before the commencement of the Act are validated.

There may be deducted from the bounty payable to any person any sums due by him in respect of the purchase or sale by him of canned fruit, or fruit pulp, under any arrangement controlled by the Commonwealth.

The Cattle Export Bounty Act (No. 14) provides for the payment of bounty at the rate of ten shillings per head in respect of the export between July 1, 1924, and June 30, 1925, of live cattle for slaughter. The bounty is payable to *bona fide* pastoralists who have exported the cattle for slaughter or sold them for export for slaughter. Where the exporter has purchased the cattle from a *bona fide* pastoralist for export for slaughter at a price which includes the amount of the bounty, the bounty shall be payable to him.

The object of the Wine Export Bounty Act (No. 23) is to assist the Doradillo Grape industry. The bounty is payable in respect of wine, fortified so as to contain not less than 34 per centum of proof spirit, which is exported from the Commonwealth between September 1, 1924, and August 31, 1927. Bounty may be withheld if less than a reasonable price is paid for the Doradillo Grapes used in the production of the fortifying spirit.

The Dried Fruits Advances Act (No. 20) follows the lines of the various bounties Acts passed from time to time. It differs from a bounty Act in that the amounts payable under the Act are repayable, and the repayment is made a charge on the dried fruits to be produced by the grower in the year 1925.

An advance is payable to the grower of dried currants, dried sultanas, and dried lexias in respect of the proportion of dried fruits produced in the year 1924 to be exported in pursuance of an export arrangement, or, if there is no such arrangement, in respect of the actual quantity of dried fruits produced by the grower in the year 1924 and exported by him before December 31, 1924.

Where a grower has ceased cultural operations on his orchard and the operations are being carried on by some other person for the purpose of protecting the orchard, the advance may be paid to that person.

Applications for advances must be made in the prescribed form, and the applicant must undertake, *inter alia*, to expend the advance on material and labour in connexion with cultural operations on the orchard. This requirement is made in order to achieve the object of the advance, namely, the carrying on of the industry in the year 1925, which was jeopardized by the bad season experienced in the year 1924.

The advance is repayable with interest at 6 per centum per annum. Packing organizations and export merchants to whom dried fruits produced in the year 1925 are forwarded in pursuance of the conditions of the advance are required to repay the advance out of the proceeds of the sale of those dried fruits.

The Export Guarantee Act (No. 42) has for its object the encourage-

ment and financial support of the export and marketing of primary produce.

Power is given to guarantee to any bank the amount of any advance made by the bank to any board which under any other Act is vested with power to control the export and marketing of Australian produce. The Dairy Produce Control Board and the Dried Fruits Control Board are such Boards.

In addition to giving those guarantees, there is power to grant assistance in relation to the export and marketing of primary produce upon the recommendation of any body of persons constituted to advise the Minister upon matters relating to trade and commerce.

Such assistance may take the form of a bounty or may be made by way of advance or otherwise, as the Government thinks fit.

Tariff.—The Customs Tariff (No. 1) increases throughout by five shillings per gallon the tariff on brandy, as from 9 a.m. on April 4, 1924.

The Excise Tariff (No. 28) reduces to 5*s*. per gallon the duty on spirit for fortifying Australian wine, distilled wholly from the fresh juice of Doradillo grapes, but leaves the duty on other such spirit unaltered.

The Tariff Board Act (No. 29) requires certain inquiries by the Board to be held in public. Evidence may, however, be taken in private if the Board thinks it is desirable in the public interest so to do. Other amendments of a formal character are made in the principal Act and the Act is made a permanent measure.

The New Zealand Re-exports Act (No. 21) makes special provision for the determination of the value for duty of goods, not of New Zealand produce or manufacture, which are imported into Australia from New Zealand.

The value is to be the sum of the following: (*a*) the current domestic value in the country whence the goods were exported to New Zealand at the date of such export; (*b*) all charges payable for placing the goods free on board at the port of export to New Zealand; (*c*) 10 per centum of the sum of the amounts specified in (*a*) and (*b*); and (*d*) 10 per centum of the sum of the amounts specified in (*a*), (*b*) and (*c*).

If the current domestic value mentioned in paragraph (*a*) cannot be ascertained, the value is: (*a*) the current domestic value in New Zealand at the date of export to Australia; (*b*) all charges payable for placing the goods free on board at the port of export in New Zealand; and (*c*) 10 per centum of the sum of the amounts specified in (*a*) and (*b*).

The Act is to commence on a date to be fixed by proclamation, after reciprocal provisions have been made by New Zealand as regards goods exported to New Zealand from Australia.

Financial.—The Income-tax Assessment Act (No. 51), apart from those provisions which give relief from taxation in certain respects, is mainly a machinery measure designed to make the principal Act more effective, and to express more clearly the intention of Parliament.

The general exemption from income-tax is increased from £200 to £300, the exemption decreasing by £1 for every £3 by which the income exceeds £300.

Prizes in lotteries are no longer taxable.

Income derived from working certain gold-mining property is exempt from taxation.

The period of notice of assessments is extended to sixty days.

The provisions of the principal Act relating to what is included in income are amended to ensure that any election made in relation to taking the value of trading stock into account for the purpose of computing the profits derived from any trade or business shall be irrevocable.

Members or shareholders of companies are not liable to tax on any dividend paid exclusively out of profits arising from the sale of assets which were not acquired for the purpose of resale at a profit.

An amendment is included to made the position clear as regards the taxation of bonus shares.

Provision is also made to ensure that there will be no evasion by companies of taxation on amounts unreasonably withheld from distribution.

Further concessions are given to taxpayers by virtue of new provisions relating to deductions for wear and tear on machinery and other articles used for the purpose of producing income, and a taxpayer whose taxable income does not exceed £900 is allowed, as deductions, amounts paid for the medical expenses of himself, his wife, and family.

A deduction is also allowed of amounts donated to public bodies for research into the causes, prevention or cure of diseases in human beings, animals and plants.

The Income-tax Act (No. 50) imposes income-tax for the year 1924–5. The ordinary rates are the same as those imposed by the Act of 1923, but the rate of the additional tax is reduced from 53½ to 38 per centum of the ordinary tax. Also the tax on prizes in lotteries is only payable in respect of prizes won prior to a date fixed by proclamation.

The Income-tax Collection Act, 1923, provides for the payment of compensation to permanent officers of the Taxation Branch of the Department of the Treasury who are retired or retire in pursuance of the Act. Provision was also made for such payment to be made to certain temporary employees. By the Income-tax Collection Act, 1924 (No. 36) the payment of compensation to temporary employees is limited to returned soldiers, and provision is also made for the payment of compensation in cases where officers are retired through a decrease in taxation work, rendering a reduction of staff necessary.

The Income-tax Assessment (Live Stock) Act (No. 33) purports to overcome the difficulty created by the judgment of the High Court in the case of *Cameron* v. *Deputy Federal Commissioner of Taxation* (32 C.L.R. 68). In that case it was held that regulations made under the Income-tax Assessment Act, 1915–18, fixing different standards for the various States for the purpose of determining the fair average value of live stock to be taken into account in computing profits were invalid as being an infringement of s. 51 (II) of the Constitution. Consequently for the year 1918–19 to 1921–2, during which the regulations were carried into effect, income-tax in respect of live stock was wrongly assessed, and the department was liable to make refunds of income-tax.

In order to obviate such refunds and to prevent hardship in certain cases, the Act of 1924 provides that the taxpayer may, within four months after the commencement of the Act, elect to accept the assessment previously made or to have the assessment altered in accordance with the provisions of that Act.

The Act does not deprive any person of the benefit of any judgment of the High Court relative to the value of live stock included in the assessment of his income-tax.

The War-time Profits Tax Assessment Act (No. 53) gives to taxpayers under the principal Act a right of election, as regards the alteration of assessments by reason of the value of live stock being taken into account in a different manner from that employed in the original assessment. The Act is necessitated by the decision in Cameron's case, referred to above, in connexion with the Income-tax Assessment (Live Stock) Act.

The Entertainments Tax Assessment Act (No. 52) extends the exemption from the tax to entertainments of which the whole of the net proceeds are to be devoted to the erection, maintenance and furnishing of halls for public purposes or memorial halls for the use of returned soldiers or sailors, or to religious or public purposes, or to the provision of sick, accident or funeral benefits for members of societies not carried on for the profit or gain of the individual members.

Power is also given to refund the tax paid in respect of an entertainment held for charitable or religious purposes, where, owing to unforeseen circumstances, the expenses exceed 50 per centum of the receipts.

The Land Tax Assessment Act (No. 32) is a formal measure to enable an Acting Commissioner or Acting Assistant Commissioner of Land Tax, as the case may be, to be appointed in the event of a vacancy in the office of Commissioner or Assistant Commissioner.

The National Debt Sinking Fund Act (No. 6) amends the Act of 1923 by providing for additional payments into the National Debt Sinking Fund in respect of expenditure out of loan moneys on postal works.

Banking.—The principal object of the Commonwealth Bank Act (No. 15) is to effect a change in the management of the Bank. The management is transferred from the Governor to a Board of Directors, composed of the Governor and seven other Directors. The seven other Directors consist of the Secretary to the Treasury, and six other persons who are, or have been, actively engaged in agriculture, commerce, finance or industry.

The Governor is the Chief Executive Officer of the Bank.

A Board of Advice in London, consisting of three members appointed by the Governor-General on the recommendation of the Board of Directors, is also constituted.

Provision is made for meetings of the Board of Directors, and for the appointment of an Executive Committee to carry on the business of the Bank between meetings of the Board.

An important provision made by the Act is that which empowers the Bank to issue Australian notes to any bank in Australia in exchange for money or securities lodged with the London branch of the Bank. This provision enables the Bank to overcome at any time any money shortage in the Commonwealth owing to the rate of exchange, making it expensive to transfer moneys from London to Australia.

The Act also increases the capital of the Bank from £10,000,000 to £20,000,000, provides for the settlement of balances between banks to be conducted through the Bank, and requires each bank to prepare weekly accounts and statements of its liabilities and assets, and to prepare and supply to the Treasurer quarterly a general abstract in a specified form compiled from the weekly accounts and statements.

The Bank is given power to accept trusts for charitable or public purposes.

Railways.—The Grafton to South Brisbane Railway Act (No. 54)

marks the first step towards the unification of the railway gauges of Australia. The Act approves the agreement made between the Commonwealth and the States of New South Wales and Queensland respecting the construction of a railway of standard gauge (4 ft. 8½ in.) between Kyogle and South Brisbane, and the regrading and relaying of the railway between Grafton and Kyogle.

No agreement has been reached as regards the unification of all the railways, and the works contemplated by the agreement are to be carried out pending the agreement.

The Commonwealth is to provide the total cost of the works in the first instance, but its final liability is to be one-fifth of the total cost. The other four-fifths are deemed to be provided on behalf of the five mainland States, and will be payable by them in manner agreed.

Electoral.—The Commonwealth Electoral Act (No. 10) makes voting compulsory at Commonwealth elections.

Failure to vote, or, on being given the prescribed notice, failure to give reasons for not voting, or stating a false reason for not voting, is punishable by a fine not exceeding £2.

Immigration.—The Immigration Act (No. 47) widens and strengthens the provisions of the law relating to prohibited immigrants.

Passports held by persons seeking admission to the Commonwealth must, in addition to the requirements of the principal Act, if not issued by the Government of the United Kingdom, be viséd by a British Consular or passport officer.

Members of crews of vessels who are deserters are no longer exempt from the provisions of the Act relating to prohibited immigrants.

Persons admitted into the Commonwealth temporarily, who fail to observe the conditions of their admission, and indentured labourers admitted for service in the pearling industry who are deemed to be undesirable persons, are liable to be treated as prohibited immigrants.

The Minister's power of deportation is widened, reference to a Board only being necessary in the case of persons advocating the overthrow by force of the established government of the Commonwealth, or committing acts of an allied character.

Other amendments are directed to assisting the prosecution of offences against the Act.

Bankruptcy.—The Bankruptcy Act (No. 37) makes provision for a uniform bankruptcy law throughout the Commonwealth. The Act is based on British legislation on the subject, and most of the important provisions of legislation in force in the States have been incorporated. This Act is applicable to the Crown, and to foreigners and married women, but not to corporations with respect to which winding-up provisions are made. In regard to the administration provisions they follow closely the English scheme. The system of control is centred in the Attorney-General, and provision is made for an Inspector-General, registrars and official receivers. Bankruptcy jurisdiction is conferred on such Federal Courts as Parliament creates for the purpose, and such State Court or Courts of a Territory as are specially authorized to exercise that jurisdiction. No new Courts are created by the Act. Any question of law arising in bankruptcy proceedings may be referred to the High Court for its opinion. With the exception of certain specified matters, the jurisdiction of a bankruptcy judge may be exercised in chambers.

In regard to acts of bankruptcy, the Act follows closely the English

Act of 1914, certain additional Acts having been adopted from the State Acts. The procedure of the Act follows that of the English Act, omitting the provisions as to receiving orders.

Upon the Court making an order for sequestration, the debtor becomes divested of his estate, which is then available for distribution. After sequestration comes the debtor's statement of affairs, showing particulars of his assets, debts and liabilities, the names, residences, and securities held by them respectively, and such further or other information as may be prescribed.

In regard to meetings of creditors, the public examination of the debtor, the appointment of a trustee, the realization and distribution of estates and the discharge of bankrupts, the English law has been followed, except that there are no compulsory examinations.

The provisions as to the remuneration of trustees differ from the English provisions. Under the Act the remuneration is to be in the nature of a commission not exceeding 5 per centum on the amount realized after deducting the expenses of realization.

Part IX contains special provisions, similar to those in the English Act, with respect to small estates.

With a slight modification, the Act follows the New South Wales law in regard to the avoidance of fraudulent preferences. This constitutes a departure from the principle adopted in England, and the other States, of avoiding certain transactions which are carried out with a view of preferring a particular creditor. The New South Wales Act has regard to the effect of the transaction irrespective of the intention of the bankrupt.

The provisions of the Act as to priority of debts are more exact than the corresponding provisions in the British and State Acts. The actual order of priority is specified. Further, as certain priorities are in the case of the States given by Acts other than Bankruptcy and Insolvency Acts, it has been necessary to provide for the priority of certain debts, such as arise out of advances made for development of land, etc.

Part XII relating to Deeds of Arrangement introduces the English system of control, applies and incorporates the main bankruptcy provisions relating to trustees and other provisions relating to proof of debts, the property available for their payment, the effect of bankruptcy on antecedent transactions, and the realization and distribution of the bankrupt's property.

Compositions and Assignments without sequestration are provided for in Part XI, which follows the South Australian and West Australian Acts on this particular subject.

The Act is to commence on a date to be fixed by Proclamation.

Territories.—The Seat of Government (Administration) Act (No. 8) establishes a new system of administration for the Territory for the Seat of Government. The administration of the Territory is vested in the Federal Capital Commission, a body corporate consisting of three persons appointed by the Governor-General.

The powers of the Commission include the control and management of Crown lands, the levying of rates, the construction, maintenance, operation and control of tramways, roads, bridges, etc., the provision of gas, electricity, water, sewerage, markets, weighbridges, pounds and abattoirs, forestry and afforestation, the protection of public health, the construction of works and buildings for the Commonwealth and the Commission, and generally the municipal government of the Territory.

The Commission also has power to make by-laws for the purpose of giving effect to powers conferred on it by the Act.

The exercise of the powers of the Commission will necessitate considerable expenditure, and certain moneys are therefore specified as revenue of the Commission.

The Commission may, in pursuance of a resolution of both Houses of the Parliament, borrow moneys. Moneys so borrowed may be used only for the expenses of borrowing and for purposes approved by the Minister.

The amount expended by the Commonwealth, prior to the commencement of the Act, in connexion with the establishment and administration of the Territory, after deducting the amount of the receipts of the Territory, is made a liability of the Commission. The Commission also assumes all the liability of the Commonwealth under existing contracts and agreements in relation to the Territory.

The powers of the Commission in relation to the control and management of the territory may be extended by regulation.

The main purpose of the Papua Act (No. 25) is to alter the constitutions of the Executive Council and the Legislative Council. The Executive Council is enlarged from six to nine members, one of whom is to be chosen by and from the non-official members of the Legislative Council. The number of non-official members of the Legislative Council is increased to five, and is not subject to any variation by reason of increase of the resident white population.

The Legislative Council is required to keep minutes of its proceedings, a copy of which is to be forwarded to the Minister at the end of each quarter.

Provision is also made whereby the office of Administrator will automatically cease to exist upon the present Administrator ceasing to hold office.

The restriction on the granting of freehold estates in Crown land is modified by giving power to transfer such land to natives and to exchange such land for other land held by natives.

Oil.—The Oil Agreement Act (No. 7) approves the further agreement made between the Commonwealth and the Anglo-Persian Oil Company, whereby the capital of the Commonwealth Oil Refineries, Limited, is increased by £250,000, out of which the Commonwealth is to subscribe for and be allotted 125,000 shares. Provision is made in the Act for the borrowing of moneys to enable the Commonwealth to subscribe for the shares.

Post and Telegraph.—The Post and Telegraph Rates Act (No. 12) provides for the free transmission of meteorological telegrams from Commonwealth meteorological offices or stations.

Wireless Telegraphy.—The Wireless Agreement Act (No. 24) approves an agreement between the Commonwealth and the Amalgamated Wireless (Australasia), Limited, relating to the provision of a main trunk station capable of providing a commercial wireless service to communicate with corresponding stations in the United Kingdom and Canada.

The agreement varies the agreement of 1922 in pursuance of which the Amalgamated Wireless (Australasia), Limited, arranged with Marconi's Telegraph Company, Limited, for the erection of a trunk station and other stations in England for communication with Australia.

The British Government, however, refused to grant licences for the erection of those stations, and as it is desirable that the erection of a

station in Australia should be proceeded with, the amending agreement was entered into.

Under the amending agreement, the Commonwealth agrees to relieve the Amalgamated Wireless (Australasia), Limited, of some of its obligations under the original agreement upon the Company entering into an agreement providing for the erection of such a main trunk station with a traffic capacity as regards each corresponding station in the United Kingdom and Canada of 21,600 words per day each way for 300 days per year, and containing satisfactory guarantees for provision of such a service.

Shipping.—The Sea-Carriage of Goods Act (No. 22) repeals the Sea-Carriage of Goods Act, 1904, and substitutes provisions similar to those contained in the Carriage of Goods by Sea Act, 1924, of the United Kingdom.

The Act also provides that parties to a bill of lading or document relating to the carriage of goods from any place in Australia to any place outside Australia are deemed to have contracted according to the laws of the place of shipment, and any agreement to oust the jurisdiction of the Courts of the Commonwealth or a State in respect of the document, is illegal. Similarly, any agreement purporting to oust the jurisdiction of the Courts of the Commonwealth or a State as regards a bill of lading or document relating to the carriage of goods to Australia is illegal.

Service and Execution of Process.—The Service and Execution of Process Act (No. 26) extends the power to serve summonses in any part of the Commonwealth to cases of disobedience or failure to comply with orders made under the law relating to deserted wives and children, or the protection of infants. It also gives power to apply the provisions of the Act to the service and execution of the process, and the execution of the judgments, of the Court of any Territory in any other Territory.

Assistance to States.—The Tasmania Grant Act (No. 27) provides for the payment to Tasmania over a period of five years of £255,000, and of a sum equal to the amount of income-tax received by the Commonwealth in respect of prizes won on or after July 1, 1924, in lotteries held in Tasmania.

The Main Roads Development Act (No. 5) is an amending Act and doubles the amount which may be paid to each State for expenditure on main roads.

Quarantine.—The Quarantine Act (No. 30) gives power to prohibit the removal of any animals, plants or goods from any part of the Commonwealth to any other part of the Commonwealth, whether or not any disease exists in the first-mentioned part. The power can, however, only be exercised for the purpose of preventing the spread of disease. Power is also given to prohibit the importation of articles likely to introduce any disease or pest affecting animals or plants.

Statistics.—The Statistical Bureau (Tasmania) Act (No. 48) approves the agreement between the Commonwealth and Tasmania, whereby the Commonwealth Statistician is to carry out certain functions previously exercised by the Statistician of the State. Provision is made in the agreement for the transfer to the Commonwealth Public Service of State officers engaged in the Statistical Bureau of Tasmania, and for the exercise by the Commonwealth Statistician of certain statutory functions of the Statistician of the State.

Boy Scouts.—The Boy Scouts Association Act (No. 31) is designed

to protect the Association and its branches in the Commonwealth. Provision is made to prevent the unauthorized use of the name "The Boy Scouts' Association" or the name of any local branch of the Association.

The Association is empowered to register under the Designs Act any uniform, badge, etc., of the Association, and the unlawful use of any such registered uniform, badge, etc., is punishable.

National Museum. — The Zoological Museum Agreement (No. 49) establishes a National Museum of Australian Zoology, and approves the agreement between the Commonwealth and William Colin McKenzie, whereby certain specimens of the fauna of Australia and animals are transferred to the Commonwealth for the purpose of forming the nucleus of the Museum.

Public Service.—The Commonwealth Public Service Act (No. 46) is an amending Act, and makes provision for facilitating the exercise of the powers and functions of the Public Service Board, and the administration generally of the Public Service.

Certain special rights are created, viz. the right of an officer while he occupies the position to which he is assigned by the classification of the Service to continue to receive the salary allotted to him by a determination under the Arbitration (Public Service) Act, where the salary allotted to him by the classification is less than the first-mentioned salary, and the right of a female officer on marriage to receive an allowance.

Under the principal Act transfers and promotions of officers, for the purpose of filling vacancies, were effected by the Board. The amending Act gives that function to the permanent head of the department in which the vacancy occurs.

Special provision is made for the attachment of the salaries of officers for the payment of judgment debts. Where such a judgment has been given against an officer, the person in whose favour the judgment has been given may serve on the Paying Officer of the Department in which the officer is employed a copy of the judgment certified under the hand of the proper officer of the Court, and a statutory declaration stating that the judgment has not been satisfied. The Paying Officer then requires the officer to state whether the judgment has been satisfied. If the officer fails within a specified time to satisfy the Paying Officer that the judgment has been satisfied, the Paying Officer deducts from moneys due to the officer the amount due under the judgment, but so that the amount to be received by the officer is not reduced to less than £2, or one-third the amount which would be payable to the officer.

The Superannuation Act (No. 45) is an amending measure, and is mainly directed to providing for the grant to officers of pensions under the Act on retirement on reaching the age of sixty, and to making special provision for contributions by, and the payment of pensions to, members of the permanent Military and Air Forces.

The Act is also applied to certain officers of the Australian Commonwealth Line of Steamers.

The Audit Act (No. 34) increases the salary of the Auditor-General from £1,000 to £1,500 per annum.

1. NEW SOUTH WALES.

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1923.

Acts passed: Public—58; Private—3.

Children.—The Child Welfare Act (No. 21) consolidates and varies existing legislation on this subject which had previously to be sought in several independent enactments, namely, the Crimes Act, 1900, the Deserted Wives and Children Act, 1901, the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Neglected Children and Juvenile Offenders Act, 1905.

S. 6 authorizes the Governor to appoint, on the recommendation of the Public Services Board, a body consisting of a secretary and other necessary officers to administer the Act, the main objects of which are to secure greater protection for "neglected children," for illegitimate children and their mothers, to ensure closer supervision over boarding-out establishments, and to facilitate procedure in cases of offences committed by children.

S. 10 makes it possible for children to be boarded out until they reach the age of fourteen, and s. 12 extends the subsequent period of supervision for a like additional term, that is until the child is sixteen. Shelters, industrial schools, and segregation homes may be established; children committed to such institutions remain under the control of the superintendent thereof until they reach the age of eighteen or are discharged, apprenticed, or placed out. It is further provided that the cost of maintenance of the ward may be recovered from the parents or near relatives if they are able to maintain or to contribute to the maintenance of the child. All places used for the reception, apart from the parents, of one or more children under seven years of age must be licensed; failure to comply with this requirement renders the offender liable to a fine not exceeding £35 and to the removal of such children from his or her care (ss. 29 and 32). The grant of a licence is followed by a periodical inspection of the premises, and the licence may be cancelled where the conditions are not observed. Further, no child under seven years of age (the Children's Protection Act, 1902, had prescribed "under three years of age") can be admitted to such a home without a written order of a Court where (*a*) the mother is not also admitted, and (*b*) valuable consideration other than by way of periodical instalments is given; where such instalments are paid they must not exceed 30*s.* per week and not more than four such instalments shall be paid in advance. These provisions do not apply to any institution supported wholly or in part by public subscription nor to any private charity that is inspected or controlled by the State.

Part X of the Act contains provisions dealing with pre-natal and post-natal affiliation proceedings, imposing heavier pecuniary liability upon the putative father. S. 70 increases to £30 the sum which a defendant in proceedings instituted before the birth of the child may be required to deposit for preliminary expenses, and provides that if the mother gives birth to a still-born child, before the date on which the order of the magistrate or Court, requiring the defendant to show cause why he should not make provision for the expected child, shall have

lapsed, payment to the mother of the whole or part of the deposited sum may be ordered. Similarly, where proceedings are instituted after the birth of the child the magistrate or Court may order the defendant to pay a sum not exceeding £30 towards the preliminary expenses, and a defendant who fails to observe the terms of the order is deemed to have left the child " without means of support." Power is also given to make an order for payment of the funeral expenses of an illegitimate child still-born after the fifth month of pregnancy, or of an illegitimate child born alive and dying before reaching the age of sixteen, or of the mother dying during or in consequence of parturition, in all cases where the father has not paid an adequate sum for preliminary or funeral expenses. The payments that may be ordered are not to exceed £30 for preliminary expenses, and a " reasonable sum " for funeral expenses ; provided that no order for preliminary expenses shall be made unless complaint is laid within twelve months of the birth of the child, or for funeral expenses where no complaint is laid until after twelve months from the death of the mother or child.

Part XIV introduces provisions entirely novel in New South Wales law ; adoption is legalized to the extent of placing an adopted child in practically the same position, with regard to all legal and equitable rights and liabilities, as a child born in lawful wedlock. Prevention of abuses of the Act is secured by provisions as to the relative ages of the parties, the consent of the spouse where the adopting person is married, the character of the adopting person and his or her ability to maintain and educate the child, and the consent of the parents, if either survive, of the child.

Conveyancing.—After the High Court decision in *Delohery* v. *The Permanent Trustee Company of New South Wales*,[1] that the doctrine of " ancient lights " became part of the law of New South Wales on the foundation of the Colony in 1788, the Ancient Lights Declaratory Act, 1904, was passed to provide that no easement of light shall be deemed to exist by reason only of enjoyment for any period or of any presumption of a lost grant based upon such enjoyment. The Conveyancing Act, 1919, repealed but re-enacted the Ancient Lights Declaratory Act, and the Conveyancing (Amendment) Act, 1923 (No. 15), extends like provisions to claims to enjoy an easement of air.

Factors.—The Factors (Mercantile Agents) Act (No. 2) was passed with the object of repealing the Act of 1899 which had declared the English Acts 4 Geo. IV, c. 83, and 6 Geo. IV, c. 94, to be in force in New South Wales, of affording greater protection to persons entering into contracts with respect to goods entrusted to mercantile agents, and of giving greater validity to contracts made by such agents when in possession of the actual goods or of the documents of title thereto. The new Act follows fairly closely the English Act of 1889, two sections of which are omitted as having been already inserted in the Sale of Goods Act, 1923, namely in s. 28 (1) and the proviso to s. 49, which reproduce ss. 8 and 10 respectively of the English Factors Act. Owing to a difference of wording between the English and the New South Wales Acts the protection given to contracts made with a factor is not so extensive under the local Act. S. 2 (1) of the English Act applies to a sale of goods by a mercantile agent who is " with the consent of the owner " in possession of the goods or of the documents of title thereto ; the

[1] [1904], 1 C.L.R. 283.

New South Wales Act by s. 5 (1) only protects transactions with a mercantile agent "as such." Another difference lies in the fact that s. 9 of the (English) Factors Act has no place in the corresponding New South Wales Act; s. 28 (2) of the local Sale of Goods Act, however, reproduces the more restricted provision contained in s. 25 (2) of the English Sale of Goods Act with regard to transactions between a buyer who has obtained possession of goods or of the documents of title thereto from a mercantile agent and third parties acting *bona fide* and in ignorance of any rights still remaining in the original vendor. The omission of the words "any agreement for sale" which are contained in s. 9 of the (English) Factors Act results in the protection of the local Act being extended only to transactions which create rights *in rem*.

Income-tax.—The Income-tax (Commonwealth) Collection Act (No. 16), passed in ratification of an agreement made between the Federal and State Governments, provides for the assessment and collection by state officials of income-tax payable to the Commonwealth. The amalgamation of the two departments will make possible a reduction in the total number of staff employed.

Juvenile Migrants.—Although the definition of the word "juvenile" is not restrictive, it would appear from the provisions of the Juvenile Migrants Apprenticeship Act (No. 52) that it is intended to apply only to minors under nineteen coming to New South Wales from the United Kingdom. The application of the Act is not compulsory; it only affects those who come to the State under Government sponsorship and elect to bring themselves within the scope of the Act. The Minister of Labour and Industry is empowered to establish institutions for the maintenance and education of juvenile migrants, and may also make arrangements to apprentice such migrants to any trade or calling, including domestic service. The Act, however, does not show whether the number of minors who may be apprenticed under its provisions is to be supplementary to the numbers permitted under various arbitration awards already in force.

Liquor.—Amongst other matters of merely administrative importance, a new provision is made by the Liquor (Amendment) Act (No. 51) with regard to the payment of compensation. Under the earlier Act compensation was payable to a large class of persons; the new Act excludes persons or companies whose chief place of business is outside New South Wales. The position, however, of persons carrying on business in New South Wales who have the exclusive rights of selling liquor made by persons or companies having their principal place of business elsewhere, would seem to be unchanged.

Maintenance Orders.—The Maintenance Orders (Facilities for Enforcement) Act (No. 4) makes provision for the enforcement in New South Wales of maintenance orders made in any reciprocating State, and for transmitting to such countries maintenance orders made in New South Wales. Power is also given to extend the operation of the Act to countries which subsequently pass reciprocating legislation.

Monopolies.—The Monopolies Act (No. 54) is an attempt to prohibit the formation of trusts controlling, to the detriment of the public, the supply or the price of any commodity or service. Heavy pecuniary penalties are provided, and, in addition, a second offence against the Act is made an indictable offence rendering the party liable to fine and imprisonment for a period not exceeding three months.

Police.—The Police Regulation (Appeals) Act (No. 33) empowers the Governor to appoint a judge of the District Court as Police Appeal Board. Such judge sits alone unless any party to an appeal demands otherwise; in such cases two assessors (both to be members of the police force) are appointed, one by the Inspector-General of Police and the other by the police force itself. The duty of the Board is to hear appeals from members of the police force who may be dissatisfied with the ruling of the Inspector-General with regard to promotion, imposition of fines, suspension or reduction in rank or pay, dismissal, discharge or transfer.

Public Trustee.—The Public Trustee (Amendment) Act (No. 13) provides for the appointment of a deputy public trustee and for the enlargement of the powers of the public trustee. The prohibition of the acceptance by the public trustee of trusts for charitable purposes and of administration of an apparently insolvent estate is removed. An order of the Court is not now a condition precedent to the vesting of an estate in the public trustee; the registration of his appointment has the same operation. He may exercise a power of sale unhampered by certain restrictions imposed by the principal Act (No. 19 of 1913), and may in cases of small estates elect to take out administration with the will annexed instead of obtaining probate.

Royal Commissions.—The Royal Commissions Act (No. 29) repeals existing legislation and enlarges the rules governing the procedure and powers of Royal Commissions. A distinction is made between Commissions over which a judge of the Supreme Court presides and Commissions issued to other persons; in the former case all powers of the Supreme Court for compelling the attendance of witnesses, the production of books, and punishment of contempt, are vested in the Commissioner.

Sale of Goods.—The Sale of Goods Act (No. 1) is a consolidating measure which follows the English Act of 1893 *verbatim* with one important exception: s. 4 expressly negatives the application in New South Wales of the doctrine of "market overt" which the Supreme Court had already declared, in *Emblem* v. *McRae*,[1] not to be in force in this State.

Stock Diseases.—The Stock Diseases Act (No. 34) marks an attempt to deal more thoroughly with cattle ticks and other diseases, and with this end in view gives the Minister very wide powers, including the power to declare quarantine areas and to order the destruction of infected stock. Wide powers are also given to the inspectors to be appointed under the Act, and breaches of its provisions are visited with heavy penalties.

Veterinary Surgeons.—The Veterinary Surgeons Act (No. 25) provides for the establishment of a "Board of Veterinary Surgeons of New South Wales," and prohibits any person from being registered as a veterinary surgeon unless and until he has satisfied the Board as to his qualifications, good fame and character; no person who is not so registered is entitled to the description of veterinary surgeon or to carry on business as such.

1924.

Public Acts passed—78.

Administration of Justice.—Provision is made by the Administration of Justice Act (No. 42) for registration in the Supreme Court of New

[1] 9 N.S.W. Rep. 182.

South Wales, of judgments obtained in the United Kingdom (but not in the Irish Free State or Northern Ireland) or in such other of the Dominions as extend reciprocal treatment to judgments obtained in New South Wales. A judgment is not registrable where : (*a*) the Court giving it had no jurisdiction ; (*b*) the judgment debtor did not reside or carry on business within the jurisdiction of the original Court nor submit himself thereto ; (*c*) the judgment debtor was not duly served with the process of the original Court and did not appear ; (*d*) the judgment was obtained by fraud ; (*e*) there is an appeal pending or proposed to be made ; or (*f*) the original cause of action would not have been entertained by the Supreme Court of New South Wales. On registration of the judgment it becomes equivalent to a judgment of the Supreme Court, and the same action can be taken thereon as on a judgment obtained locally.

Division 2 of Part III of the Act confers jurisdiction upon District Courts in cases where the defendant is not in New South Wales, provided that the debt or liability was incurred in the State or that the defendant has promised in writing to pay at a place within the State. These provisions nullify the effect of *Ex parte Gove*,[1] in which the defendant, a resident of Victoria, was served with a summons in a District Court action under the (Federal) Service and Execution of Process Act ; it was then held that the District Court had no jurisdiction over the defendant and therefore service under the said Act was of no effect.

Division 3 of Part III amends the Supreme Court Procedure Act, 1900, with regard to judgments on issues of fact, amount of damage or compensation given by a judge without a jury, and provides for the method of entering judgment and for the procedure by way of appeal.

Division 4 of Part III amends the Interpleader Act, 1901, so as to enable the Court to grant relief in cases where claimants have adverse and independent titles, and to direct the trial of any issue by a District Court Judge with or without a jury.

S. 16 lowers the rate of interest on the amount of verdicts and on judgment debts, and s. 10 (6) provides that District Court judgment debts shall carry interest.

Auctioneers.—The Auctioneers Licensing (Amendment) Act (No. 28) simplifies the issue of licences and provides a summary procedure for the cancellation thereof. S. 10 provides that any auctioneer who knowingly misrepresents or causes or permits to be misrepresented the composition, structure, character or quality or the origin of manufacture of any goods put up for sale at an auction sale held by him, shall be liable to a fine not exceeding £50. Every auctioneer is required to keep a written record of particulars of all goods and chattels sold at an auction conducted by him, and to produce it when called upon to do so to a police officer. S. 12 provides that if an auction sale is not described in the conditions as being subject to a bid on behalf of the seller, the seller must not himself bid nor any person on his behalf, and the auctioneer must not knowingly accept any such bid. The penalty for a breach of this section is a fine of not less than £2 nor more than £50.

Children.—The adoption provisions contained in the Child Welfare Act of 1923 are extended by the Child Welfare (Amendment) Act (No. 69) to empower the Minister to make an application to the Court, on behalf of certain persons and at their request, for an order of adoption in favour

[1] 21 N.S.W. State Reports, 548.

of such persons. S. 125*a* provides that applications may be heard in open Court or in public or private chambers and that the Court may order all persons other than the parties and their representatives to be excluded from the Court. S. 128*a* provides that the Registrar-General is to register all adoption orders in such manner as may be prescribed by the rules of Court.

Co-operation, Community Settlement and Credit.—This Act (No. 1) provides the requisite legal machinery for enabling any section of the community (not being less than seven in number), if it so desire, to form co-operative societies for the various purposes set out in the Act and to restrict the use of the word "co-operative" to such bodies as comply with the provisions of the Act. The list of societies given in s. 6 of the Act is as follows: (*a*) a rural society; (*b*) a trading society; (*c*) a community settlement society; (*d*) a community advancement society; (*e*) a building society; (*f*) a rural credit society; (*g*) an urban credit society; (*h*) an investment society; (*i*) an association of co-operative societies; (*j*) a union of co-operative associations.

Ss. 7–37 set out in considerable detail the powers and scope of the various societies given in the list.

S. 61 provides that any person carrying on a trade or business or any company must cease to use the title "co-operative"—even though the trade or business is being conducted on a co-operative basis—unless such person or company becomes registered under the Act as a co-operative society. An individual must so register within one month after the commencement of the Act; a company within one year.

S. 40 precludes a society from registering in a name identical with that of a previously registered society; the name is required to include the word "co-operative," and the last word must be "limited" in the case of a society with limited liability, and "unlimited" in the case of a society with unlimited liability.

No member of a society may hold more than one-fifth of the total number of shares nor more than one thousand shares in any case; shares cannot be sold or transferred without the consent of the Board. In the case of Rural Credit Societies with unlimited liability, no dividends at all may be paid on shares; in the case of all other societies the dividend *per annum* must not exceed 8 per cent. on the amount paid up (s. 47). The Act requires 5 per cent. of the surplus in each year to be carried to reserve until the reserve amount to at least one-fourth of the paid-up capital or of money borrowed or received in deposit. Such reserves, in the event of liquidation, are divisible among the shareholders. The Act further provides by s. 47 (1) that the capital of a society shall be variable, according to the nominal value of the shares from time to time subscribed; there is *semble* no power to exclude any person who is prepared to agree to the rules of the society, nor to expel any member whose conduct is in accordance with the rules. Co-operative societies are exempted from stamp duty in respect of the certificate of incorporation and share certificates, and in respect of any land that may be acquired by the society (s. 62). S. 63 relieves the society from income-tax in respect of its undistributed profits and of any share of profits repaid by the society to a member by way of bonus on his transactions with the society in cases where 90 per cent. of the society's business is done with its members.

Investment societies are granted relief from income-tax with respect

to dividends on shares in any other society or incorporated company, or on interest received in respect of bonds of any other society; the taxable income of a member is not to include dividends paid to him out of the non-taxable income of the society. The Act contains also very detailed provisions with regard to the method of incorporation, regulations for administration, general methods of management, the settling of disputes and winding-up.

Criminal Law.—The sections in the principal Act with regard to sexual offences are repealed by the Crimes (Amendment) Act (No. 10), which substitutes provisions of practically the same import, but in which the age of consent is in all cases raised to sixteen from fourteen. Other alterations are made in the principal Act, such as s. 9, which provides for cases where a person fraudulently appropriates property which he did not originally take with fraudulent intent, or where a person fraudulently retains property with intent to obtain a reward for its restoration. S. 154*a* is designed to visit with heavy penalties the practice of "joy-riding" which had not previously been an offence and had become somewhat prevalent; the new section renders liable to three years' imprisonment any person who takes and uses the "vehicle or boat" of another; "vehicle" and "boat" are both generously defined. A person charged with the larceny of a vehicle or boat may alternatively be convicted of an offence under s. 154*a*. S. 189*a* provides penalties for the offence of receiving or having possession of goods stolen outside New South Wales; but no conviction can take place under the section if the original taking, stealing, etc., were not unlawful in the place where such taking, etc., was committed.

S. 10 widens the scope of the original Act with regard to offences committed in making unauthorized alterations to cheques. S. 12 enables a constable to arrest without warrant for an offence other than felony or misdemeanour where the issue of a warrant is certified by telegraphy by the Inspector-General of Police or the justice who has signed the warrant. S. 13 gives power to search an arrested person, to cause him to be medically examined, to take photographs, finger-prints and other measures necessary for identification. Husband and wife are now, by s. 78, made compellable witnesses in prosecutions for offences under any Imperial or local Act which makes husband or wife a compellable witness or for offences against certain specified sections of the Child Welfare Act, 1923. S. 17 abolishes the presumption of coercion by the husband in cases where the wife commits an offence in the presence of her husband. By s. 18 persons who have made a scientific examination of any article or body need not be called to give their evidence in person, but a certificate setting out the fact of the examination having been made, the nature of the examiner's qualifications, and the conclusions reached, is *prima facie* evidence of the matters stated therein. The list of offences punishable summarily is extended by s. 23, which repeals the relevant section of the principal Act; a new list is also given of offences punishable summarily without the consent of the accused. The insertion of a bogus advertisement concerning any person other than the person who causes the advertisement to be inserted is made an offence by s. 545*a*. The new Act also includes certain minor amendments to the Habitual Offenders Act, 1905, and the Criminal Appeal Act, 1912.

Crown Lands.—The most interesting provision in the Crown Lands

and Closer Settlement (Amending) Act (No. 52) is that which provides for the allocation of land to immigrants coming from the United Kingdom under agreement between the Commonwealth or State Government and the United Kingdom. The Act limits the land to be made available for this class in any one year to one-tenth of the total area made available in the particular year. The main object of the Act is to ensure in all cases that the applicant is only granted land in an area for the cultivation of which he is *prima facie* qualified.

Electrical Contractors. — The Electrical Contractors Licensing Act (No. 47) provides for the establishment of a Board to issue licences, permits the issue of licences to persons deemed competent by reason of lay experience in their trade, specifies under what conditions a licence shall be forfeited, defines " electrical work " and persons engaged therein, and provides that after a day to be notified by the Governor in the *Gazette*, no person shall by himself or his employees undertake electrical installation work unless duly licensed by the Board. Penalties are provided for the offences of obtaining a licence by fraud, for the use of a cancelled licence, and for any other contravention of the provisions of the Act.

Government Railways. — Act No. 73 embodies some of the recommendations of the Commission of Inquiry composed of Sir Sam Fay and Sir Vincent Raven, who were invited by the Government to examine the organization and administration of the State railways. The appointment of the Chief Commissioner and two assistant Commissioners is left unchanged except for the fact that their salaries are substantially increased, the new provision is found in s. 10D, which empowers the Chief Commissioner to appoint four Area Commissioners to discharge, within such areas as are specified by the Commissioners, such duties as are entrusted to them by the Commissioners.

Housing.—The object of the Act No. 27 is to abolish the Housing Board which was set up by the Act of 1912 and to vest in the Minister charged with the administration of the Act all powers formerly possessed by the Board. Some slight alterations are made by the new Act in the sections empowering the Minister to lease or sell, to agree to cancellation of sales, to pay compensation on the surrender of land, to remit amounts paid and to extend the time for payment, and similar provisions dealing with administrative discretion.

Income-tax. — Further reductions in existing rates of income-tax, with respect to the earnings of individuals, are made by Act No. 14. The tax now commences at the rate of 9*d.* in the pound, plus the provisions of Schedule III or with the valuation of land Act. When a decision has been made, the valuation is effected accordingly ; the decision is to remain in force for three years, and thereafter until reviewed by the Council.

Jury.—Act No. 8 exempts from jury service two new classes, namely, dentists registered under the Dentists Act, 1912, and the employees of the Government of any State of the Commonwealth other than New South Wales.

Main Roads.—Statutory provision is made by Act No. 24 for the establishment of a Main Roads Board and for the creation and allocation of funds to Metropolitan and Rural Councils for road-making work. Before work can be commenced it is necessary that the road in question should be proclaimed a main road (metropolitan or country) by the

Governor acting on the recommendation of the Board, which must take certain specified matters into consideration before making its recommendation. The cost of undertaking main road construction is to be borne out of public revenues, such as taxes, etc., under the Motor Vehicle Taxation Act, fees for licences and penalties for breach of the Metropolitan Traffic Act and contributions made by Councils. A subsidy of not less than a specified sum is to be granted by the State, and power is given to raise loans. An important provision is that once a road has been declared to be a "main road" the consent of the Main Roads Board must be obtained before permission can be given by a Council to any person to dig up a road or lay any pipes or construct passages, etc., thereunder.

Metropolitan Water, Sewerage and Drainage.—The object of Act No. 10 is to remove these essential services from political control and to establish them under an independent body, the members of which are to be elected by the constituencies set out in the Second Schedule. The President of the New Board is to be appointed by the Governor for a period of five years; all the members are to receive not more than £800 per annum, while the President receives £2,000 per annum, and is not to engage in any other trade or business during his tenure of office. The new Board takes over the capital indebtedness of its predecessor, which is estimated at £22,489,418 15*s.* 4*d.*, and is granted power to raise further loans, but so that the total amount of its indebtedness shall not exceed 15 per cent. of the unimproved capital value of all lands rateable for the service of the Board.

Mining.—In *The Commonwealth* v. *Hazeldell, Limited*,[1] the Privy Council decided that limestone was not a mineral within the meaning of the Mining Act, 1906, and therefore could be made the subject of a lease under that Act. The Mining Leases (Validation) Act (No. 2) provides for the validation of leases granted under Part IV of the original Act, and for payment by the Crown to the owner of a mineral not reserved of any royalty received by the Crown under any such lease in respect of such mineral.

Motor-vehicles.—Supplementary to the Main Roads Act, the Motor Vehicles (Taxation) Act (No. 75) provides for the importation of taxes on motor-vehicles according to weight, horse-power now being disregarded in the assessment of the tax. It further sets up a distinction between solid and pneumatic tires and imposes rates of tax very much in favour of the latter type of tire which is rightly considered to be less deleterious to the roads; all moneys raised by this form of taxation are to be at the disposal of the Main Roads Board.[2]

Meat Industry Encouragement.—The New South Wales Meat Industry Encouragement Act (No. 72) authorizes the establishment of a State Meat Advisory Board for the purposes of co-ordinating all measures deemed necessary for the increase of production of beef, mutton and their products, and for the improvement of the method of breeding, killing, storing, selling, etc., meat and other products. The Board is to be partly elective, owners of sheep and cattle being entitled to votes, varying in number with the number of cattle or sheep owned by each, provided that no owner shall have any vote unless he has been assessed for contribution under s. 4, which prescribes that the Minister may in each year, on the recommendation of the Board, levy on every owner a

[1] Reported in 29 C.L.R. 448.

[2] *Supra*, p. 137.

sum not exceeding one penny per head of cattle and one-sixth of a penny per head of sheep, no assessment being payable on any stock owned by an individual not exceeding one hundred of cattle and five hundred head of sheep. It is further provided that any person failing to pay the levy shall be liable to a fine not exceeding £25, but that the Minister may remit both assessments and penalties.

Nurses.—Provision is made by the Nurses' Registration Act (No. 37) for the establishment of a Nurses' Registration Board of New South Wales, to be composed of the Director-General of Public Health, the Inspector-General of Mental Hospitals, the principal teacher of obstetrics at the University of Sydney, one medical practitioner and two nurses nominated by the New South Wales Council of the Australasian Trained Nurses Association, and one nurse (who shall be a past or present nurse in a mental hospital) to be nominated by certificated mental nurses in manner to be prescribed by regulation. Of the other two nurses nominated as above, one shall be a past or present nurse of a general hospital, the other of a midwifery hospital. The members of the Board, with the exception of the first three, who hold their positions *ex officio*, are appointed for three years and may be re-elected. The powers and duties of the Board include the holding of examinations in subjects specified by the Board and the making of all necessary arrangements in connexion therewith, the registration of qualified nurses and the issue of certificates of registration; it has also power to remove or suspend from the register any nurse guilty of misconduct. Any nurse so removed or suspended is given the right of appeal to a District Court Judge. Existing nurses may be registered provided that they satisfy the Board as to their qualifications. After twelve months from the commencement of the Act no person is to assume the title of nurse unless she is registered as such; nor shall any registered nurse act in any capacity (except in cases of urgency) in which she is not registered. Ss. 17–23 of the Act contain the necessary provisions as to fees and general administration.

Plant Diseases.—The object of the Plant Diseases Act (No. 38) is to supplement existing legislation on this subject by making further provision to prevent the introduction into the State of diseases and pests affecting plants or fruit, to provide for the eradication of such diseases and pests and to prevent them from spreading. Subsidiary provisions affect the sale and grading of fruit and vegetables, and require the registration of orchards and nurseries. Wide powers are given to the Minister to declare quarantine areas, to inspect infested areas, and to order the destruction if necessary of infected plants. The owner is also required to give written notice within a prescribed period of the appearance of any disease which is included in the list of such diseases published in the *Gazette*. No compensation is to be given to owners for loss resulting from anything done in pursuance of the powers granted by the Act unless the loss were caused wilfully, negligently, or maliciously.

Prickly-pear.—Act No. 31 bears witness to the alarming growth of another pest which is becoming very serious in Queensland and northern New South Wales. The Act sets up a Board of three members to be appointed by the Governor for a period of five years, who are granted wide discretionary powers for the purpose of putting into force the provisions of the Act. The Board may advise the Governor to declare any area a prickly-pear zone, which may be classified as (*a*) lightly infested, (*b*) heavily infested, or (*c*) very heavily infested, the latter

comprising areas which in the opinion of the Board cannot be profitably cleared. Funds to the extent of £30,000 (or such larger sum as Parliament may provide) per annum for five years are to be credited to the Board, which is to use the money for clearing lands and for other incidental purposes mentioned in the Act. The Act applies to all lands without distinction, and requires the owner or occupier of infested land to report in writing within three months of the commencement of the Act what steps he is taking to destroy the prickly-pear. The Board, if not satisfied with the steps taken, may cause its officers to enter the land and undertake the eradication of the pest at the cost of the owner of the land. Further, the Board may supply poisons, etc., and advance money to an occupier to carry out the work of destruction. With regard to Crown lands, the Minister on the recommendation of the Board may alienate the fee of infested lands on such terms and conditions as may be considered advisable with regard to the extermination of the pest. Other provisions of the Act require a Council, when called upon to do so, to clear and keep cleared all roads and other areas under its control, and empower the Council for that purpose to make a special levy under the Local Government Act without taking a poll on the question whether the levy shall be made.

Stamp Duties.—Two Acts have been passed during the year in connexion with stamp duties—Nos. 16 and 32. The first of these Acts, which was expressed to be only preparatory to the more comprehensive measure which was in fact introduced later in the year, aimed at facilitating commercial transactions of frequent occurrence but relative unimportance by abolishing the stamp duties which had been imposed on them by the Act of 1920 and subsequent amending Acts. Included in the list are affidavits and declarations, appraisements of any property, documents and various transactions relating to mining companies, agreements for mortgages, receipts for salaries, etc., receipts for payments of compensation under the Workmen's Compensation Act, and for payments of maintenance under the Child Welfare Act, cash sale dockets, etc. The Stamp Duties Further Amendment Act (No. 32) is a more elaborate measure intended largely to relieve commercial transactions of what in many cases is a very heavy impost, and to remove inconsistencies in the existing law. Chief among its provisions are those dealing with companies, their incorporation and transfers of their shares; duties on hiring agreements, leases for less than one year, powers of attorney, and policies of insurance. An important provision is contained in s. 127, which enacts that shares in private companies or companies whose shares are not listed on the Stock Exchange are to be valued on the basis that the memorandum and articles of association satisfy the requirements of the Stock Exchange so as to enable the company's shares to be placed in the list at the time of valuation; that is to say, the Commissioner may disregard clauses in the articles which would have the effect of undervaluing the shares. The section further provides that no agreement whereby the value of the share of a deceased partner or of any partner on the dissolution of the partnership is determined as between the partners shall be conclusive as to its value, but (s. 127*a*) that the Commissioner may require the delivery of such balance-sheets and accounts as may be necessary to enable him to ascertain the value.

Trustees of Public Reserves.—The Trustees of Public Reserves Enabling Act (No. 9) gives to trustees of such lands (*i.e.* public lands reserved or

reserved by Government for parks and similar purposes) a limited power with the consent of the Minister to sell, lease or mortgage the whole or part of any public reserve. A decision of the trustees so to sell, lease or mortgage must be confirmed at a second meeting held not less than one month after the first meeting, and the trustees must twice publish in a newspaper notice of their intention to apply for the Minister's consent. A *bona fide* purchaser from the trustees is protected against any irregularity in respect of any matters prescribed by the Act. There is no provision dealing with objections from residents or ratepayers in the locality of the reserves which it is proposed to sell, lease or mortgage, but, *semble*, the Minister will not give the necessary consent where there seem to be reasonable objections to the proposals of the Trustees.

Water.—Act No. 4 provides for the regulation of private irrigation schemes, which are defined as including " any scheme under which lands are supplied or are proposed to be supplied by a work with water from a river or lake to be used by two or more persons for purposes of irrigation. For the purposes of this definition two or more persons holding land in the same interest to which the water is supplied or proposed to be supplied shall be deemed to be one person." S. 2 provides that any occupier of land whereon any work is constructed or proposed to be constructed for the purposes of (*a*) water conservation, irrigation, water-supply or drainage; (*b*) the prevention of inundation of land and overflow of water therein; (*c*) changing the course of a river, may apply to the Water Commission for a licence to construct and use the work and to take and use for the purpose specified in the application the water conserved or obtained thereby. Division 4 of the Water Act, 1912, is repealed, and in its stead are provisions that no water shall be taken from a river or lake for private irrigation purposes except under the authority of the Commission; such authority may be granted for a period not exceeding ten years on such terms and conditions as the Commission thinks fit and subject to payment of the charges prescribed. Where a private irrigation scheme is already in existence, an application for the grant of such an authority may be lodged within six months of the passing of the Act; thereafter, pending the decision of the Commission as to granting the application or refusing it the applicant may be permitted to take water on such conditions as the Commission may determine. S. 19 (5) provides that if during the currency of an authority alterations are made in connexion with the work which materially and prejudicially affect the quantity or quality of the water flowing in, to or from, or being in any river or lake (the consent of the Commission not having been given), then the person responsible for the alteration is liable to a penalty and the authority may be cancelled by the Commission.

2. QUEENSLAND.

[*Contributed by the* Hon. Sir Littleton E. Groom, K.C.M.G., K.C., M.P., M.A., LL.M., *and* J. F. Gamble, Esq., B.A., LL.B.]

Acts passed,—35.

Agriculture.—The Diseases in Plants Act Amendment Act (No. 5) gives increased powers to inspectors in connexion with the prevention and eradication of diseases in plants. Express provision is made in regard to the fruit fly and the codlin moth.

Animals and Birds.—By No. 13 further provision is made for the protection of animals and birds during the close season. The Act expressly declares that all animals and birds, and the skins thereof, until lawfully taken or killed, are the property of the Crown. Permits may be issued to trappers and dealers, but a royalty, at a prescribed rate, must be paid in respect of each skin of any animal or bird taken or killed. These royalties are paid into a fund which is applied towards the cost of the administration of the Act.

Auctioneers.—Various amendments to the principal Act are made by the Auctioneers and Commission Agents Act Amendment Act (No. 9). The provisions relating to the payment of purchase moneys into a trust account and the disbursement of such moneys have been recast. New provisions have been enacted in regard to the offences of fraudulent conversion by auctioneers, and the rendering of false accounts. Provision is made to enable a licensee to appoint a substitute to act for him when he is unable, owing to serious illness or other exceptional circumstances, to carry out his duties. Auctioneers and commission agents must produce their books and accounts on demand for inspection by the Registrar or by any other person appointed in that behalf by the Minister.

Children.—The State Children Amendment Act (No. 31) adds to the principal Act a provision that, where a State child has passed the State High School entrance examination, the State shall continue to maintain or assist in the maintenance of the child for such further period as the Minister determines.

Cotton.—The Cotton Industry Act Amendment Act (No. 14) extends the provisions of the 1923 Act in regard to the destruction or cutting down of certain cotton plants. The Act also provides that a levy may be made, on the vote of a three-fourths majority of the growers, for the purpose of maintaining and working cotton ginneries.

Education.—Provision for the education of blind, deaf and dumb children is made by the Blind, Deaf and Dumb Children Instruction Act (No. 2). Where the parents are unable to provide proper instruction, the children must be sent to an approved institution, either as boarders or day scholars. No charge is made for the education of these children, but the parents may be required to contribute, according to their means, towards the maintenance of the children. Approved institutions are subject to inspection by the prescribed authority.

Income-tax.—The Commonwealth and State Income-taxes Agreement Act (No. 15) ratifies an agreement between the Commonwealth and State Governments under which the machinery of the State Taxation Department is to be used for the assessment and collection of Commonwealth income-tax. The Agreement provides for the transfer of officers of the Commonwealth Taxation Department to the State Public Service, and for the preservation of their existing and accruing rights. It also makes provision for determining the cost of collecting Commonwealth and State income-tax respectively, and the proportion of the cost to be borne by each Government.

The Income-tax Act (No. 34) consolidates and amends the law relating to income-tax. Exemption from taxation is granted to public authorities, friendly societies, trade unions, religious, charitable, scientific and educational institutions, and co-operative companies of primary producers. Income derived from Government Bonds, interest on moneys in savings banks, and income received from a provident or superannua-

tion fund is also exempt. Profits made by the purchase and sale (within six years) of real property is deemed to be income. So, also, is any excess of liquidation dividends in a company over the purchase price of the shares. Provision is also made for the calculation, for purposes of taxation, of the profits in respect of the sale of a business, and the sale of live stock, etc. Every taxpayer in receipt of an income of less than £800 per annum is allowed a deduction of £50 in respect of each child under sixteen years maintained by him, and a deduction of £40 in respect of his wife. Expenses actually incurred in educating children (not exceeding £50 per annum) may also be deducted. Persons whose income does not exceed £250 per annum are exempt from taxation.

Justices.—No. 6 makes provision for the grant of bail by a Court of Petty Sessions presided over by a police magistrate where the offender has admitted his guilt, and has been committed for sentence. The provision does not apply, however, in the case of certain serious offences.

Labour.—Comprehensive provisions in regard to apprenticeship are contained in the Apprenticeship Act (No. 12). Every minor who desires to be apprenticed must make application to the Director of Labour. Employers requiring apprentices must also apply to him. Candidates for apprenticeship may be required to pass an educational test. An advisory Board, to be called the Apprenticeship Executive, is constituted by the appointment of representatives of the Government, the employers and the employees, and for each trade or group of trades a Group Apprenticeship Committee is formed to deal with particular cases in the trade. The conditions of apprenticeship are determined by the award applicable to the particular trade. Attendance of apprentices at technical classes is compulsory, and apprentices obtaining 75 per cent. or over at prescribed examinations are entitled to 5 per cent. additional pay. On completion of his term of apprenticeship each apprentice must pass a final examination, and on passing this examination he receives a certificate to that effect. All premises on which apprentices are employed are subject to inspection by industrial inspectors. No employer is permitted to charge any premiums for the employment or indenturing of a probationer or apprentice, and provision is made for industrial unions or associations to take apprentices. Every indenture of apprenticeship must contain certain specified provisions, and the Group Committee has power, in certain specified circumstances, to transfer an apprentice from one employer to another.

The Industrial Arbitration Act Amendment Act (No. 25) reduces the standard hours of employment in Queensland from forty-eight to forty-four hours per week.

Local Authorities.—The Local Authorities Amendment Act (No. 20) requires every Shire Council, within three years after the passing of the Act, to erect certain legible signs at or near every intersection of a main road with any other road. The Act also amends the provisions of the principal Act in regard to the election of members of Shire Councils.

The City of Brisbane Act (No. 32) prescribes the boundaries of the City of Brisbane and vests the government of the city in a Council consisting of a mayor and twenty aldermen. The city is divided into twenty wards, each of which elects an alderman. The mayor is elected directly by the electors of the whole city. Any adult who resides in the city or who is an elector of any electoral district of Queensland is qualified to stand for election as an alderman, and every elector residing

in an electoral ward is qualified to vote in that ward. The salary of the mayor is fixed at £1,000 per annum, and that of an alderman at £400 per annum. The local authorities administering the various areas comprised in the city of Brisbane are abolished, and their property, rights and liabilities devolve upon the City Council. Existing loans are to be consolidated and to run for a period of forty years. Power is given to the City Council to make Ordinances for the promotion of the peace, comfort, education, health, morals, welfare, safety, convenience, food supply, housing, trade, commerce and manufactures of the city and its inhabitants, for the planning, development and embellishment of the city, and for the general good government of the city and its inhabitants. The tramways and water-supply works are also placed under the control of the Council.

Public Service.—The Public Service Act Amendment Act provides (*inter alia*) for the application of the Industrial Arbitration Act of 1916 to officers and employees of the Crown.

Railways.—The South Brisbane-Kyogle-Grafton Railway Agreement Act (No. 10) ratifies an Agreement between the Commonwealth and the States of New South Wales and Queensland for the construction of a railway between South Brisbane and Kyogle. The construction of this line will carry into effect a portion of the proposal to establish a railway line of uniform gauge between Brisbane and Perth (W.A.).

Trustees and Executors.—The Public Curator Act Amendment Act (No. 3) extends the powers of the Public Curator in respect of the management of real estate, and enacts a new provision in regard to the rejection of creditors' claims. A new part is inserted relating to the protection of aged and infirm persons. It is provided that the Supreme Court may make an order appointing the Public Curator to manage the estates of aged or infirm persons, persons subject to undue influence, and persons unable to manage their affairs by reason of their taking or using in excess alcoholic liquors or drugs.

Upon the making of the protection order, the Public Curator may take possession of the protected estate, may execute repairs, demand and recover moneys and personal effects due to the protected person, may carry on any trade or business previously carried on, may execute transfers, leases, etc., on behalf of the protected person, and may apply any money received from the estate, after payment of necessary expenses, towards the maintenance of the protected person and his wife (or husband) and children. After the making of the Order, the protected person cannot dispose of any property which is subject to the Order without the sanction of the Public Curator, and, if the Court thinks fit, it may direct that any testamentary disposition by the protected person shall be made only after such precautions have been observed as the Court thinks necessary. The protection Order may be rescinded by the Court on the application of the Public Curator or the protected person.

Weights and Measures.—The Weights and Measures Act (No. 2) consolidates the various Acts in force relating to weights and measures. Provision is made for keeping standard weights and measures, for the issue of copies thereof, and for the inspection of weights, etc., used for trading purposes. All articles sold retail are to be sold by net weight or measure, but grain and certain other agricultural products must not be sold by measure.

3. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., M.A., LL.B., *Acting Parliamentary Draftsman of South Australia.*]

In 1924 a newly elected Parliament met in which for the first time in seven years the Labour Party had a majority in the House of Assembly. In consequence the legislation of 1924 was marked by considerable attention to industrial matters. Following are the details of the principal Acts passed.

Industrial Code.—Act No. 1648 confers upon members of the Public Service of the State (including the police, railway employees, and state school teachers) the right of access to the Arbitration Court for the purpose of obtaining an award of that Court fixing wages, salaries and conditions. Similar privileges were also conferred upon employees of the Government Savings Bank, and of the State Bank.

Prior to the passing of the Act the High Court of Australia had determined that the Industrial Code did not apply to officials of the Savings Bank. On the other hand, the State Industrial Court had held that it did apply to officials of the State Bank (a Government institution whose functions are almost entirely limited to lending, at low rates of interest, money raised by Government loan, in order to enable persons with small incomes to purchase their own homes) ; but it seemed likely that the decision of the Arbitration Court could not stand in view of the Savings Bank Case, and therefore the Act definitely brought both State Bank and Savings Bank officials under the Industrial Code.

With regard to the ordinary salaried members of the Public Service, members of the police force and school teachers, the position prior to the Act was that they did not come under the Code. Nor did railway employees unless they were " employed at daily or weekly wages or at piece-work rates of payment." The Act of 1924 made a comprehensive alteration in the law so that any person employed in the State Public Service in its widest sense, and irrespective of the amount of his salary or his status, is subject to the jurisdiction of the Arbitration Court.

Workmen's Compensation.—Act No. 1660 made some very considerable amendments to the existing law on the subject of workmen's compensation.

Firstly, the scope of the term " workman " was considerably widened. Under the existing legislation the following persons (among others) were not included : (*a*) any person not working in connexion with his employer's trade or business ; (*b*) any person not engaged in manual work ; (*c*) any person whose average weekly earnings were more than eight pounds ; (*d*) any person engaged in agricultural and other similar pursuits and not using steam, oil or other mechanical power ; (*e*) clerks and domestic servants.

The Act of 1924 altered the definition of " workman " with regard to all these persons. Under the new definition a person is a " workman " notwithstanding that he is not employed for the purpose of his employer's trade or business, subject to this, that casual workers, not employed for the purposes of the employer's trade or business, are excluded. The Act also brings within the definition of " workman " persons in receipt of average weekly earnings up to ten pounds instead of eight. Further, under the Act the term " workman " is not limited to persons engaged in " manual work," but includes all persons engaged in manual labour or

clerical or other work. The exclusion of agricultural workers from the term " workman " is also abolished.

The Act also increases the compensation for death and incapacity. For death the minimum amount of compensation is raised from £200 to £400, the maximum from £400 to £600.

For incapacity the law prior to the Act of 1924 provided for a weekly payment not exceeding half the workman's average weekly earnings during the previous twelve months, or 30*s.* for an unmarried man and £2 for a married man, whichever was greater. The total amount was not to exceed £500. The amending Act provides for a " weekly payment during the incapacity not exceeding a sum equal to 50 per centum of his average weekly earnings during the previous twelve months if the workman has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, plus 7*s.* 6*d.* per week for each child under the age of fourteen years totally or mainly dependent upon the earnings of the workman."

The weekly payment must not exceed £5, nor must it exceed the full average weekly earnings ; and the total amount recoverable for incapacity must not exceed £700.

The Act further prescribes a series of fixed payments for a number of specified injuries of the type known as " maims."

Finally, insurance against liability for compensation is made compulsory on every employer ; but there is provision for exempting large employers who satisfy the Government as to the adequacy of their financial resources.

Engine Drivers.—Act No. 1618 was the result of negotiations which had been in progress for some years between the various Australian States. All the States had for many years been committed to the policy of requiring persons in control of steam engines and boilers to pass a test in order to show that they were possessed of the necessary knowledge and experience of machinery. There had, however, been very great diversity between the States of Australia in regard to the qualifications required and the nature of the certificates granted to engine drivers.

In 1920, for example, there were not fewer than 50 different types of certificates in force. As the result of a conference between representatives of each State, however, it was agreed to substitute for these 50 types 8 standard types which would be recognized in all States, and to ask the Parliament of each State to enact uniform legislation on the subject.

The Engine Drivers Act of 1924, which was preceded by legislation on similar lines in Queensland, Tasmania and Western Australia, brings the recommendations of the conference into law in South Australia.

Insurance Companies (Deposits).—Act No. 1659 requires all insurance companies (including in that term individuals and unincorporate associations) which carry on general insurance business in South Australia to deposit with the Government a sum of money by way of security. General insurance business is defined by the Act as " any insurance business of whatever kind not included in the term ' life insurance.' " The Act, therefore, does not apply to a company which carries on the business of life insurance only.

The amount of deposit required varies with the premium income of the Company, and according as the Company commences business before or after the commencement of the Act.

In the case of a company carrying on business at the time of the commencement of the Act the deposit required is £2,500 plus 25 per cent. of the premium income of the company for the twelve months preceding the date of deposit. As the premium income increases, the amount of deposit required increases proportionately.

As regards a company commencing business in South Australia after the Act comes into force the amount of deposit is calculated on the principles set out above, but the initial amount of deposit required is £5,000 instead of £2,500. Deposits are to be invested by the treasurer at current rates of interest and held as security for policy-holders in case of default by the company.

Gas.—In South Australia the supply of gas is in the hands of one company, namely, the South Australian Gas Company. Prior to the passing of the Gas Act this company had been carrying on business largely free from legislative restriction and Government control.

Act No. 1652 provides firstly for fixing the price to be charged by the company for gas supplied to the public. The price chargeable is to be the standard price fixed by the President of the State Industrial Court after public inquiry. In determining the standard price the President is required to take account of all charges for wages, freight, coal, oil, rates and other expenses properly chargeable against revenue and such a sum as is necessary to enable the company to pay interest on its bonds, mortgages, debentures and other like securities and dividends on its preference shares and to maintain a dividend on its ordinary paid-up capital at the rate of 8 per cent. per annum.

Provision is made for increasing the standard price as the cost of production increases. The dividend on the company's shares is fixed by the Act at 8 per cent. ; but this rate may be increased if the company decreases the price of gas below the standard and must be decreased if the company charges more than the standard price. The rate of interest payable on debentures, bonds and other securities issued by the company must not exceed 7 per cent.

The Act also requires the company to comply with certain standards as to the calorific value, purity and pressure of the gas which it supplies to the public.

The Act also sets out in detail the accounts required to be kept by the company and prescribes a code of rules relating to the issue of new shares, the latter being required to be offered for sale by public auction.

Fair Prices.—Act No. 1655 is directed against trade combines by reason of the existence of which prices are "fixed or increased to the detriment of the public."

The Act provides for inquiries by the Board of Industry into the existence of any alleged combine, on the application of any six or more adult residents of the State, or in proceedings initiated by the Minister of Industry. (The Board of Industry is a Board consisting of the President of the Industrial Court and representatives of employers and employees. Its normal functions are to fix the basic wage half-yearly and to schedule and group the industries in respect of which wage-fixing boards are constituted.) In conducting an inquiry under the Act the Board has the powers of a Royal Commission under the Royal Commissions Act, 1917.

The Board may by declaration fix the price of any article in respect of which it finds a combine to exist ; and the Act creates a number of

offences designed to ensure that commodities shall be available to the public at a price not higher than that so fixed. [No inquiries have at the date of writing (10/3/26) been instituted under this Act.]

Criminal Appeals.—Act No. 1613 is almost entirely a copy of the Imperial Criminal Appeal Act, 7 Edw. VII, c. 23, giving a right of appeal in all cases where a right is given by that Act.

Prisons.—The chief provisions of Act No. 1647 relate to release of prisoners on probation. Any prisoner who has served half his sentence may, on the recommendation of the Controller of Prisons, concurred in by the Superintendent of the prison in which the prisoner is confined, be released by the Governor on probation.

There is power for the Court to return to prison any released prisoner who during this probation is convicted of any offence.

Companies (Mortgages, Charges and Debentures).—Act No. 1619 adopts the provisions contained in ss. 93–107 of the Imperial Companies Act (8 Edw. VII, c. 69) requiring mortgages and other charges created by companies to be registered, and enacting that in default of registration such charges shall be void as against the liquidator or any creditor of the company.

Moneylenders.—The law on the subject of moneylenders prior to the enactment of this Act was contained in the Moneylenders Act, 1903. The effect of that Act was that if a moneylender sued his debtor for the recovery of any moneys due to him in respect of a loan made to the debtor and it appeared to the Court that the transaction was harsh and the interest excessive the Court could reopen the transaction and order the payment to the moneylender only of such sums as the Court thought just.

The weakness of this Act lay firstly in the difficulties involved in proving that a man was a moneylender, since the Act only applied where it was shown that a person carried on business as a moneylender, and secondly the Court could give no relief unless the moneylender chose to avail himself of his judicial remedies.

The new Act (No. 1617) provides for the registration of all moneylenders and proof of registration is made proof that a person is a moneylender. S. 4 of the Act empowers the Court to reopen any transaction which it regards as harsh and unconscionable either on the application of the borrower, or when proceedings are taken by the moneylender. It is enacted that for the purpose of this section any person who lends any money at a rate of interest exceeding 12 per cent. shall be deemed a moneylender. The section also gives the Court the right to re-open any hire-purchase transaction and relieve the lessee under the hire-purchase agreement from payment of any sum adjudged by the Court not to be fairly payable in respect of purchase money, interest and charges.

Ss. 9 and 10 of the Act forbid moneylenders to circularize infants. S. 11 provides that if an infant, who has contracted during his minority any loan which is void or voidable in law, agrees after coming of age to pay money in respect of that loan, or gives any security therefor, the agreement or security shall be void.

S. 12 enacts that assignments by persons entitled under any will, codicil, or deed to the property of any deceased person, of such property to a moneylender must be executed in the presence of a Special Magistrate, Commissioner for taking affidavits, or solicitor instructed and employed independently of the moneylender. The witness is to read over the document by which the property is assigned and explain to the grantor

the nature of the document he intends to execute and must satisfy himself that the grantor understands what he is doing and is acting voluntarily. In order so to satisfy himself the witness may examine the grantor as to his knowledge of the assignment and if necessary in a room apart from the moneylender or any other person. The Act contains other provisions designed for securing that the borrower shall know the exact nature of his transaction, and the full annual rate of interest he is undertaking to pay. It is also enacted that the maximum charge for obtaining or guaranteeing a loan shall not exceed 2½ per cent. of the sum lent.

Fences.—Act No 1639 contains a code of rules regulating the rights and liabilities of the owners of adjoining lands with respect to fences. Prior law gave a landowner the right merely to compel his neighbour to contribute towards the cost of a post and wire fence, this rule dating from the early days of South Australia's history. But such a fence is, of course, inadequate in closely populated urban and suburban areas, and under the Act power is given to the Court, in default of agreement, to determine what in each case is a sufficient fence having regard to the locality in which the land is situate, and to compel contributions accordingly.

Dried Fruits.—Act No. 1657 regulates the marketing of dried fruits so as to apportion between growers the favourable (because protected) home market and the export market. The Act is supplementary to the Commonwealth Dried Fruits Export Control Act, 1924.[1] That Act sets up a Dried Fruits Control Board for the purpose of effectively controlling the export and the sale and distribution after export of Australian dried fruits. The object of that Act is to bring about a scheme of co-operative marketing whereby the balance of the dried fruits crop available for export after the demands of the home market have been satisfied may be profitably dealt with.

The Commonwealth Parliament, in passing the Act mentioned, did all that it is within its legislative competence to do, but there still remained something further to be done, namely, to regulate sales and dispositions of dried fruits made entirely within a State. The Commonwealth Parliament could say that if a grower exported any of his crop he should comply with the rules laid down by Commonwealth law; but it could not say that a grower must export his crop or any proportion thereof.

The present Act supplements the Commonwealth Act by giving power to an official body to require growers to export a certain proportion of their season's crop and generally to regulate sales on the home market. It is obvious that if this were not done the growers who were able to put their fruit on the home market earliest would get high prices and the growers who came later would be met by a glut and would find that the prices obtainable for dried fruit on the home market were much below the cost of production.

The Act provides for the establishment of a Dried Fruits Board which has power to determine where and in what quantities the dried fruit produced in any particular year is to be marketed. Growers of and dealers in dried fruits are required to register with the Board, and to obey directions of the Board as to the place where and the quantity in which the dried fruits owned by them are to be marketed.

The Act also empowers the Government compulsorily to acquire

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. 1.

any dried fruits and sell them to the best advantage; but it is enacted that the owner of the dried fruits is only to receive payment at export parity price for his fruit. This power of the Government was intended to be used as a weapon to compel growers and others to obey the Board's directions as to the proportion of each season's crop to be exported.

The expenses of administering the Act are to be met out of the proceeds of a small levy imposed on growers.

Voluntary Wheat Pool Agreement Ratification.—Act No. 1620 was necessary in order that parliamentary authority should be obtained which would enable the Government to guarantee an overdraft granted by the Commonwealth Bank to the Trustees of the South Australian Voluntary Wheat Pool. This latter organization was formed for the purpose of the co-operative marketing of wheat on a larger scale, and was widely supported by farmers. The Commonwealth Bank agreed to advance four shillings in all per bushel to the farmers on the wheat delivered to the Pool, but required the Government guarantee. Hence the necessity for the Act.

Sinking Fund.—Act No. 1629 provides for the establishment of a sinking fund for the amortization of the Public Debt. A Public Debt Commission is established by the Act and an annual payment required to be made to the sinking fund of the following amounts: (*a*) in each financial year commencing 1924–5 the sum of £183,000, being five shillings per centum on £73,200,000, the amount of the Public Debt as at June 30, 1925; (*b*) in each financial year a sum equal to ten shillings per centum on so much of the Public Debt as exceeds £73,200,000.

The Act appropriates the necessary money out of General Revenue and provides for investment of the Fund.

Stock Mortgages and Wool Liens.—Act No. 1649 provides a convenient procedure for enabling pastoralists to mortgage their stock and their wool clips as security for advances. The effect of the stock mortgage or wool lien given under the Act is very similar to that of a bill of sale over ordinary chattels, but special provisions are included in the Act appropriate to this particular class of security.

4. TASMANIA.

[It is hoped to publish this Summary in the next *Review*.]

5. VICTORIA.

[*Contributed by* Sir W. Harrison Moore, K.B.E., C.M.G.]

First Session of Twenty-eighth Parliament: Acts passed—48.

Motor Omnibuses.—Act No. 3378 enables the Government to prescribe routes within the metropolitan area, the maximum number of omnibuses that may be licensed for any specified route, fares, stopping places, etc. Before any route is sanctioned the Minister is to confer with the Railway Courts and the Metropolitan Tramways Board, both of these authorities being interested in competitive services, the first on behalf of the State and the second on behalf of municipalities. He must also satisfy himself that the condition of the roads to be included in the route is such as to be capable of carrying motor omnibus traffic without unreasonable damage to the roads, and that there are not sufficient other facilities for the conveyance of passengers. It is made a condition of the licensing of

omnibuses for a "regular service" that the owner shall maintain the regularity of such service; and owners are required to insure for a minimum amount of £3,000 per omnibus against the risk of liability for damages in the way of injury to the person. Additional fees for omnibuses are provided for, calculated at a rate varying from £4 10s. to £1 10s. for each passenger the omnibus is licensed to carry, and the proceeds of these fees are carried to a "Metropolitan Roads Fund," to be allocated amongst the several municipalities.

Highways and Vehicles.—Act No. 3379 gives power to the Country Roads Board to declare "State highways" any roads which they deem of sufficient importance, and thereupon to assume responsibility for the maintenance of the road in place of the municipality. The Act also imposes restrictions on the height, width, and weight of motor vehicles and their loads, and the tires and speed of certain classes of motor vehicles. It prohibits the use of any highways for racing or trials of speed. The Country Roads Board and the municipalities, having regard to the nature of construction and the condition of roads, may prohibit the use of roads under their respective control by vehicles which with their loads are of greater than a prescribed weight.

Industrial and Provident Societies.—Act No. 3362 supersedes the existing law contained in the Provident Societies Act, 1915, and contains comprehensive legislation on the subject, which in the main follows closely the provisions of the British Act 56 & 57 Vict., c. 39.

Dried Fruits.—No. 3380 is an Act authorizing in the case of dried fruits one of those schemes of collective marketing of primary products which have become so important a feature of Australian trade, both internal and export, since the war. For this purpose, it empowers the Victorian Government to make agreements with the Commonwealth Government (which has similar powers under the Commonwealth Legislation of 1924) or with any State Government, and it is contemplated that the action of the several Governments shall be complementary, each assuming control of the matter in the sphere permitted to it in the distribution of powers by the Commonwealth Constitution. The Government may compulsorily acquire dried fruits, arrange for their sale and for the financing of the operations, and provide for control of the sale or marketing in Victoria of dried fruits not acquired by the Government. The Act is to be administered by a Board, consisting of two persons nominated by the Minister and three elected by the growers. To carry the scheme into effect "in order to encourage satisfactory sale or marketing of dried fruits, to benefit the growers thereof, and to ensure the distribution thereof at reasonable prices to the public," regulations may be made to include provisions for the limitation and control of selling and agency charges.

Victorian Wheat-growers' Corporation, Limited (Government Guarantee)—This Corporation having been established to undertake the marketing of wheat grown in Victoria, the Act (No. 3363) authorizes the Government to guarantee the repayment of advances by any bank to the Corporation for the purpose of marketing the wheat harvest 1924–5. The total liability of the Government is limited to 4*s*. per bushel of the quantity of wheat purchased by the Corporation during the season; but if the Treasurer is satisfied that the circumstances are such as to justify the giving of a further guarantee, the amount may be raised to 5*s*. Where any guarantee has been given under the Act, the Corporation is not to

borrow any other money for its purposes or charge its assets, without the consent of the Governor in Council, until the Government is discharged of its obligations under the guarantee.

Wire Netting.—This Act (No. 3375) contains elaborate provisions concerning advances to owners and occupiers of land for the purpose of providing wire netting for fences, the securities for such advances and their repayment. The Act is supplementary to Part II of the Vermin Destruction Act, 1915.

State Savings Bank (Insurance).—By the Housing and Reclamation Act, 1920, and the State Savings Bank (No. 2), 1920, persons receiving advances from the Savings Bank Commissioners are required to insure with the Commissioners against fire. The Commissioners are empowered to undertake such risks and an Insurance Trust Account is established for that purpose. The present Act (No. 3384) extends the risks in which payments may be made from the account so as to include damage or destruction by timber-borers, white ants or other insects, and authorizes the Commissioners to require insurance, with an additional premium, for these risks.

Cattle Compensation.—These Acts (Nos. 3365 and 3387) provide for compensation to be made to owners of stock destroyed under any Order because suffering or suspected of suffering from disease, and to owners of any carcass or portion of a carcass condemned under the Meat Supervision provisions of the Health Act, 1919, at any abattoir as unfit for human consumption because of disease. In the case of cattle, if after destruction they are found to be free of disease, the amount of compensation is the market value ; if found diseased, seven-eighths of the market value ; in the case of carcasses, compensation is according to a prescribed scale. The value is to be determined by agreement between the owner and the inspector ; in default of agreement, by some competent and impartial person named by the Minister.

Trafficking with diseased cattle with a view to compensation is made an offence. A Compensation Fund is established by the imposition of a stamp duty on statements required to be made on any sale of cattle, and the money received from this source, as well as any penalties recovered under the Act, are carried to the credit of the Fund, which is supplemented by such grants from the Consolidated Fund as are necessary to enable it to meet the claims upon it.

Access of Air.—By the Real Property (Access of Air) Act (No. 3360) it is declared for removing doubts that no grant of an easement shall be presumed from evidence only of user or enjoyment of the access of air to a defined aperture on the dominant tenement. The Act is without prejudice to rights resting on user and enjoyment before the commencement of the Act.

6. WESTERN AUSTRALIA.

[*Contributed by* F. L. Stow, Esq.]

The first session of the twelfth Parliament of Western Australia opened on July 24, and closed on December 23, 1924. As a result of the general election a Labour Ministry had come into power. Though it had a good majority in the Assembly, the Ministry was in a considerable minority in the Council. The result was that there were considerable disagreements between the Houses. Many proposed Bills failed to secure

the approval of the Legislature, and the session was by no means a fruitful one—the only measure of first-class importance that was passed being the Bill to amend the Workers' Compensation Act.

Forty Acts were passed during the session. Of these twenty-nine were either ordinary supply or financial measures, or of local, private or minor interest. The remaining eleven are reviewed below.

Standard Survey Marks.—No. 8 empowers the Surveyor-General to cause a standard survey to be made in any locality for the purpose of establishing standard survey marks. Plans representing all such surveys are to be retained in the Department of Lands and Surveys, and certified copies supplied to the Registrar of Titles, the Under-Secretary for Public Works, and the local authority.

Trust Funds Investment.—No. 10 empowers trustees to invest trust funds, subject to certain conditions, in debentures issued by the Board of any Road District to which the Act is applied by order of the Governor published in the *Gazette*.

Private Savings Banks.—No. 17 is based on legislation which is in force in Queensland. It prohibits the carrying on of savings bank business in the State except under the authority of a licence granted under the Act. The Act does not apply to the Government Savings Bank or the Savings Bank Department of the Commonwealth Bank of Australia, and the Governor may by proclamation exempt any private savings bank from the operation of the Act.

"Savings Bank Business" is defined as the business of receiving small sums of money by deposit (although the aggregate amount so deposited may be unlimited), and the allowance of interest thereon or on a limited portion thereof, so that, subject to withdrawals, such moneys may accumulate at compound interest. The expression, however, is not meant to extend to the business of receiving moneys on deposit for fixed periods at interest by joint stock or incorporated banks, or the receipt of deposits or loans at interest from its members or others by any building or benefit society, provided that the deposits or loans received from other than members are in sums of not less than £100.

Power is given to grant licences for the purposes of the Act, and the conditions relative to the granting of licences are defined.

Every licensed savings bank is to deposit with the Minister either: (*a*) £10,000 to be invested in Government securities; or (*b*) Government securities of the value of £10,000. The bank will be entitled to receive the interest from the moneys or securities so deposited.

Subject to exceptions set out in the Act, every licensed savings bank must, during the months of January, April, July and October in each year, invest with the Minister a sum equal to 70 per cent. of the excess of the total deposits made in the bank over the total withdrawals from the same during the last preceding quarter, and the sum so invested shall bear interest payable to the bank at the rate of 1 per cent. per annum higher than the rate of interest allowed by the bank during such last preceding quarter by way of interest on savings bank deposits.

All moneys and securities lodged with the Minister by any savings bank under the Act are charged with the payment of the bank's liabilities.

All moneys received by a bank in connexion with savings bank business are to be kept separate and distinct from moneys received on other accounts.

The savings bank moneys are to be paid into a "Savings Bank

Fund" which is to be deemed security for the savings bank depositors only.

Noxious Weeds.—No. 19 substitutes for the existing Noxious Weeds Act, 1904, other provisions whereby the powers of the local authorities with regard to noxious weeds are increased.

Provision is made for the appointment of Government inspectors by the Governor, and local inspectors by the local authorities, for the purpose of carrying the Act into effect.

Under the Act of 1904 the duty of compelling landowners to clear their lands was thrown on inspectors appointed by the Minister. The present Act imposes this duty primarily on the local authorities.

The local authority is (as under the prior Act) charged with the duty of destroying noxious weeds growing on any road or land under its control, and it is declared that no owner can be compelled to clear his land of weeds at the instance of a local authority if such authority is itself in default regarding the proper clearing of adjacent roads or lands.

The prevention of the introduction of noxious weeds into the State from outside is an important object of this Act, and for this purpose amendments of the law are provided for. S. 20 penalizes the introduction into the State of noxious weeds or seeds, and s. 21 gives authority to Government inspectors to keep in quarantine any stock imported into the State until satisfied that they are free from the seeds of noxious weeds.

Imported sheep will not, without the permission of the Minister, be released from quarantine until shorn or slaughtered. The wool or skins from any such sheep will have to be baled and not disposed of otherwise than for export from the State, unless certified by an inspector to be free from noxious weed seeds.

Extensive powers are given to the Minister in case any local authority makes default in exercising the powers conferred on it in an efficient manner. Such authority will be liable to be superseded, and power is conferred to appoint a Commissioner to exercise the powers of such authority for such time as the Minister thinks fit.

S. 14 of the prior Act, requiring the Minister for Lands or the Railway Commissioner to destroy noxious weeds on Crown or railway land which is within a mile of cultivated land, is reproduced in the present Act.

Mining Development.—The principal Act, of which No. 25 is an amendment, provides for the encouragement of mining, mainly by means of Government loans. This Act provides for the appointment of a board of five members, to be known as the Central Mining Board, and district mining boards, each consisting of three members, for districts to be defined by the Minister. These boards are charged with the duty of making inquiries into the mining industry, and of advising the Minister how and in what manner the development of mining can best be advanced.

Norseman-Salmon Gums Railway.—No. 27 is only a railway Act, but possesses a peculiar interest, being the final stage in the history of an agitation which started when the Western Australian Goldfields came into full being, and was the source of a somewhat embittered controversy. First advocated as a means of communication between the Fields and a port (Esperance) much nearer than Fremantle, the railway has been finally authorized (in sections) as an agricultural line for the benefit of the lands near the southern coast, the importance of a special port for

the fields having, with the decline of the gold-mining industry and the construction of the Trans-Australian line, practically vanished.

Pearling.—Aliens are prohibited from taking part in pearling operations—that is, in fishing for pearl shell or pearls. This industry is carried on principally in the neighbourhood of Broome, and a practice of dummying has sprung up whereby aliens arrange with British subjects to have pearling operations carried on in the names of such subjects, whereas the aliens are the real principals in the business.

The object of No. 28 is to put an end to this practice of dummying. For this purpose heavy penalties are imposed upon unqualified persons who acquire or continue to hold (whether directly or indirectly) any interest in any pearling ship or in the results or proceeds of pearling carried on by means of any such ship. The penalty also extends to any person who shall be party or privy to the acquisition or holding of any such interest by an unqualified person.

S. 4 provides for the holding of inquiries by special inspectors into cases of suspected dummying. Before any such inquiry can be held, authority will have to be obtained from a police or resident magistrate. A special inspector conducting such an inquiry will have all the powers of a royal commission under the Royal Commissioners' Powers Act, 1902, and the Royal Commissioners' Powers Act Amendment Act, 1914, and such inspector will also, in case of necessity, be able to obtain a search warrant in order to bring to light any concealed documents bearing on the subject-matter of the inquiry.

Forests.—No. 31 provides that 10 per cent. of the net revenue from sandalwood, or the sum of £5,000, whichever shall be the greater, shall be credited annually to a special account and applied to the growth of sandalwood. With regard to revenue derived from other sources than sandalwood, the principal Forests Act provides that three-fifths thereof is to be applied in the improvement and reafforestation of State forests and the development of forestry.

Dividend Duties.—No. 35 makes a considerable concession to mining companies by providing that a mining company other than a coal-mining company shall not be liable to pay duty on profits made after June 30, 1924, until such profits shall have equalled so much of the share capital of the company (if any) as may have been paid up in cash after that date, and that duty shall only be payable on the assessed profits of the company so far as, from that date, such profits exceed the amount of the share capital paid up in cash after such date.

Inspection of Scaffolding.—No. 39 is based on legislation in force in other States of the Commonwealth, and does not contain anything of a very novel character. It provides for the thorough inspection of all scaffolding, prescribes rules which are to be observed in the erection of scaffolding, and enables the inspectors appointed under the Act to prevent the use of any scaffolding or gear which would be dangerous to human life or in respect of which the provisions of the Act have not been complied with. The full operation of the Act is limited to the metropolitan area, but buildings exceeding one story in height in any part of the State also come within the scope of its operation.

Workers' Compensation.—The advent of a Labour Government may be expected to lead in a short while to an amendment of the Workers' Compensation Law. The Act (No. 40) under review, though far less drastic than the Bill as introduced (the Legislative Council having used

its power of amendment very freely), yet makes great alterations in the law.

The amount payable is increased to £600 in case of death, and in case of disablement the employer has to make, during the resulting incapacity, a weekly payment not exceeding 50 per cent. of the workers' average weekly earnings during the previous twelve months, together with 7*s.* 6*d.* per week for each child under the age of sixteen years—such weekly payment not to exceed £3 10*s.*, and the total liability of the employer in respect thereof not to exceed £750. In addition, medical and surgical expenses, not exceeding £100, are recoverable, and also, in case of death, funeral expenses not exceeding £20. In the principal Act is a table fixing the amounts of compensation payable when certain specified injuries are sustained. The effect of this provision in the principal Act was by no means clear, and it is repealed by this amending statute and replaced by a table providing that for certain kinds of injury certain lump sums are payable. The table is as follows:

Nature of Injury.	*Amount Payable.* £	*s.*	*d.*
Loss of both eyes	750	0	0
Loss of both hands	750	0	0
Loss of both feet	750	0	0
Loss of a hand and a foot	750	0	0
Total and incurable loss of mental powers, involving inability to work	750	0	0
Total and incurable paralysis of limbs or mental powers	750	0	0
Loss of either arm, or the greater part thereof	675	0	0
Loss of lower part of either arm, either hand, or five fingers of either hand	600	0	0
Loss of a leg	600	0	0
Loss of the lower part of a leg	562	10	0
Loss of a foot	525	0	0
Loss of one eye, with serious diminution of the sight of the other	675	0	0
Loss of sight of one eye	375	0	0
Loss of hearing	600	0	0
Complete deafness in one ear	200	0	0
Loss of a thumb	225	0	0
Loss of a forefinger	150	0	0
Loss of part of a thumb	112	10	0
Loss of little finger, middle finger, or ring finger	112	10	0
Loss of a toe or the joint of a finger	90	0	0
Loss of a joint of a toe	75	0	0

In no case, however, is a worker, even if he suffers two or more kinds of injury, to receive more than the maximum *bôt* (to use a not inappropriate Anglo-Saxon word)—namely £750—provided in the schedule plus medical expenses as mentioned above.

Provisions, based in the main on s. 8 of the English Act, confer rights of compensation in respect of workers dying from or affected by certain occupational diseases. The schedule of diseases is, as might be expected, very different from that in the English Act. Thus, to note one difference, the occupational diseases connected with mining or quarrying or stone crushing or cutting are:

Pneumoconiosis,
Miner's phthisis,
Ankylostomiasis,
Nystagmus,
Subcutaneous cellulitis of the hand (beat hand),

Subcutaneous cellulitis over the patella (miner's beat knee),
Acute bursitis over the elbow (miner's beat elbow),
Inflammation of the synovial lining of the wrist joint and tendon sheath,
Dermatitis.

With regard to pneumoconiosis, miner's phthisis, ankylostomiasis and nystagmus, the coming into operation of the Act has been postponed, in exercise of the power to bring some parts of the Act into operation before other parts.

It is also specially provided that a worker or his dependents shall not be entitled to the benefit of the new provisions regarding occupational diseases so far as they refer to pneumoconiosis or miner's phthisis, if the worker arrived in the State after the commencement of such provisions, until he has lodged with the Registrar of Friendly Societies a certificate of a medical referee that he is free from pulmonary tuberculosis, pneumoconiosis, and miner's phthisis.

Insurance by employers against their liabilities under the Act, though optional under the Act of 1912, is made compulsory by this Act.

7. PAPUA.

[*Contributed by the* Hon. Mr. Justice Herbert.]

Ordinances passed—18.

Mineral Oil and Coal Ordinance.—No. 1 regulates the searching and mining for mineral oil and coal in the Territory. A licence or lease may be granted only to a company formed and incorporated under the law of the Territory or formed and incorporated under the law of the United Kingdom or of some other part of the King's Dominions and registered in the Territory under Part V of the Companies Ordinance, 1912, and of which company two-thirds of its shares are held by natural-born or naturalized British subjects.

Licences may be granted for the exclusive right of searching for mineral oil or coal, or both, for a period of five years, in respect of an area of land not exceeding 1,000 square miles. Subject to his compliance with other provisions, it confers on the licensee on discovery of payable mineral oil, a preferential right to a mineral oil lease of 160 acres and a mineral oil reward lease of 640 acres to be selected by the licensee from the area included in the licence. On the discovery of coal in payable quantities the licensee has a preferential right to a coal lease of 640 acres to be selected in a similar manner. The preferential right to a lease is lost in either case on failure to apply for a lease within six months of the discovery of the oil or coal as the case may be.

Provision is made for the renewal, surrender and cancellation of licences for employment of white men (at least four for six months in each year) and for a quarterly report of the number of men employed and of the nature of the work done.

Mineral oil leases and coal leases may be granted by the Lieutenant-Governor; the area of a mineral oil lease (subject to the provisions as to a reward lease above referred to) may not exceed 160 acres, nor may a coal lease exceed 640 acres. In the case of either lease the term is twenty-one years and the rental 1*s.* per acre. The leases are renewable at the discretion of the Lieutenant-Governor.

There are special provisions which give the Governor-General the right of pre-emption of all oil produced by the lessee at an agreed price or price fixed by arbitration. The lessee of a mineral oil lease is to do his utmost to increase supply if requested by the Lieutenant-Governor. Royalty at the rate of £5 per centum on the value of all crude oil obtained is payable in respect of an oil lease. Oil is not to be shipped to any place other than Australia without consent. The lessee covenants to refine or have refined in the Territory or in some approved part of Australia all crude oil produced, or if required, to have all crude oil produced refined at the works of the Commonwealth Oil Refineries, Limited. Other provisions regarding oil leases are of a more or less usual character. A coal lease is to contain such reservations, covenants and conditions as may be prescribed.

Licensees and lessees before commencing operations on land which is native-owned must notify the nearest warden or a magistrate of his intention, and deposit a sum which the warden or magistrate shall assess as the damage likely to be done to the surface of the land. The deposit is to be held as security and to be paid wholly or in part to the native owners to cover any damage to the land or improvements. No operations which will cause substantial damage to a native village or to native lands shall be permitted by the magistrate or warden unless the natives concerned give their consent in the presence of the magistrate or warden, and then only subject to such conditions as he shall approve.

Customs (Export) Tariff.—No. 7 imposes an export duty per ton of copra of 10 per centum on so much of the declared London market value of the copra as is in excess of £20 per ton. The London market value is ascertained and declared monthly by the Treasurer.

Registration of Births, Deaths and Marriages.—No. 10 provides for the keeping of a separate " Register of Native Marriages " for the registration of the marriage of natives celebrated in accordance with the provisions of the Marriage Ordinances.

IV. NEW ZEALAND

[*Contributed by* J. CHRISTIE, ESQ., LL.M., *Parliamentary Law Draftsman.*]

Acts passed: Public and General—66; Local and Personal—25; Private Acts—6.

The parliamentary session of 1924 lasted four months; although the Government had the support only of a bare majority of members pledged to support its policy, it nevertheless succeeded in having sixty-six public measures placed on the Statute Book. These, with twenty-five local Acts and six private Acts, together make up a bulky Statute Book of nearly 800 demy-quarto pages.

The more important enactments will be referred to in detail presently, but special reference may here be made to the following:

(1) The Land Act is a consolidation of the Land Act, 1908, and the numerous amending statutes relating to Crown lands which, beginning with the year 1912, have year by year been passed in fulfilment of the freeholding policy of the present Government party, under the leadership of the Rt. Hon. Mr. Massey.

(2) The Chattels Transfer Act is a consolidation and amendment of the law relating to chattel securities, and was drafted by Messrs. C. P. Skerrett, K.C., and E. D. Bell; both of these gentlemen, distinguished in the active practice of the profession of law, devoted much time and thought to the consideration of the new measure, and were, by reason of their wide practical knowledge of the difficulties of the subject, particularly well qualified for their task. The review of this Act which follows has been written, by request, by Mr. E. D. Bell.

(3) The Land Transfer (Compulsory Registration of Titles) Act (No. 32). It is confidently expected that by reason of the operation of this new Act the whole of the land in New Zealand will be brought under the land-transfer system within the next five years, to the infinite simplification of transactions involving titles to land. A general statement of the system now in force and of what is to be accomplished by means of the present Act was contributed to this *Journal*[1] by Mr. C. E. Nalder, a solicitor of the Supreme Court of New Zealand, who in his capacity as Registrar-General of Land will be charged with the supervision of operations under the Act.

(4) Companies Empowering. This Act (No. 52) constitutes the legislative recognition of a scheme originated by Mr. H. Valder, a New Zealand business man, who has for many years advocated its adoption with a view to effecting an improvement in the relationship between employers (being incorporated companies) and the workers whom they employ. A review of the Act was contributed in the February number of the *Journal*,[2] by Mr. F. A. de la Mare, a solicitor of the Supreme Court of New Zealand, who has been intimately associated with Mr. Valder in urging the legislative recognition of the scheme.

(5) Motor-vehicles. This Act is complementary to the Main Highways Act, 1922; an essential feature of its scheme is to provide funds for the construction and maintenance of "main highways" under that Act. To effect this purpose, the registration of motor-vehicles is undertaken by the Government, while hitherto it has been left to certain classes of local authorities. Fees are prescribed to be payable on registration, and in addition an annual licence fee is made payable.

(6) The Legislature Amendment Act introduces a system involving the compulsory registration of electors, with penalties for those persons qualified to be enrolled who fail to take the preliminary steps necessary to secure enrolment.

(7) Produce Control. The scheme of control which originated with the Meat Export Control Act, 1921, and was later (in 1923) extended to dairy produce, has now been further extended to apply to fruit and honey. The aim of all these Acts is to secure the utmost benefit to the producer from the sale of his produce abroad. None of the Acts has been sufficiently long in operation to allow of a confident opinion being expressed as to the merits and demerits of their characteristic schemes.

In the following review only the more important of the public Acts passed during the session have been dealt with.

Rent Restriction.—The Rent Restriction Act (No. 3) again extends the operation of the "Rent Restriction" legislation originally enacted in 1916. Unless further extended the legislation will expire on August 31, 1925. The Act now under review also makes certain minor alterations

[1] See *Journal of Comparative Legislation*, Third Series, vol. viii, pt. i, p. 141.
[2] *Ibid.*, p. 146.

in the law. *Inter alia*, it renders inoperative any covenant or other agreement whereby a tenant may purport to contract himself out of the protection afforded by the law. A further amendment relates to the "standard rent," which in the case of dwellings let at the commencement of the war was fixed by reference to the rent payable as on August 3, 1914. Owing to changes of tenancy and ownership it is not always easy to ascertain, as a matter of fact, the rent that was then payable, and provision is made for fixing the standard rent in such cases by reference to the capital value as on August 3, 1914.

Superannuation Allowances for Employees of Local Authorities.—The Local Authorities Superannuation Amendment Act (No. 6) has introduced a new principle with respect to the computation of retiring allowances granted to officers and servants of local authorities under the scheme established by the Local Authorities Superannuation Act, 1908. Under that scheme the widow of a deceased contributor to a superannuation fund is entitled during widowhood to a pension of £18 per annum. By the amending Act now under consideration, an officer on retiring from the service of a local authority may enter into a special agreement with the local authority under which he agrees to accept from the Superannuation Fund a retiring allowance of a less amount than that to which he would be otherwise entitled, and the local authority in consideration of the reduction agrees with the annuitant to pay to his widow in the event of his death an annual allowance in excess of the £18 per annum provided for by the principal Act. At present the new principle has been applied only to the superannuation schemes of local authorities. Recommendations have, however, been made for its extension to the superannuation schemes established for the benefit of the several branches of the Government service (*e.g.* railway servants, teachers, and public servants generally), and the extension asked for will be made when a convenient opportunity offers.

Copyright.—The Copyright Amendment Act (No. 7) makes provision for the extension by Order in Council of the benefits of the Copyright Act, 1913, to British Protectorates and mandated Territories.

Extradition.—The Extradition Amendment Act (No. 8) provides that every Stipendiary Magistrate shall, without further appointment, be a Commissioner for purposes of extradition. It also adopts the provisions of the Extradition Act, 1906 (Imperial), by which bribery is constituted an extradition crime.

Pure Food.—The Sale of Food and Drugs Amendment Act (No. 9) amends in various particulars the provisions of the Sale of Food and Drugs Act, 1908. Under the principal Act, the term "Drug" was limited in its application to substances used by man as medicine, including "anæsthetics." Following the Statute of New South Wales (1908, No. 31), this definition has been extended to include soaps, dusting powders, unguents, disinfectants, germicides, antiseptics and preservatives. The term "sale" has been extended so as to apply with respect to the supply of articles of food, including condiments, supplied for consumption in any shop, hotel, restaurant, eating-house, stall or other place. In promoting this extension the Health Department (by which the Act is administered) had in mind mainly the desirability of securing the purity of milk and other articles of food supplied as part of a meal or light refreshment in tea-rooms and other like places. With a view to preventing evasion of the principal Act by means of technical defences,

the term "owner," used with reference to any food or drug, has been extended to include any person who with the consent or concurrence of the owner is for the time being in possession or control of such food or drug.

By the principal Act, an officer taking a sample of any food or drug for purposes of analysis is required to divide that sample into three parts, one of which is to be retained by the seller or his agent. It sometimes happens that the quantity contained in any one package is not sufficient to permit of its being conveniently so divided. It is provided by the amending Act that in any such case, the officer may take three like packages and deal with them as if the three packages together constituted one sample. S. 9 of the amendment makes it an offence for any person by advertisement or otherwise to publish any statement modifying or qualifying any of the particulars which by the principal Act or by the regulations under it are required to be set out on packages containing any food or drug.

By the principal Act the Governor-General is empowered to make regulations prescribing the mode of labelling food and drugs sold in packages and also prescribing the matter to be contained or not to be contained in such labels. This provision has been extended and the Governor-General is now empowered to make regulations with respect to articles sold otherwise than in packages, requiring that there shall be conspicuously displayed in the place of sale, so as to be easily read by the purchaser, the same particulars, if any (subject to necessary modifications), as are required to be contained in the labels when such articles of food are sold in packages. This provision is also intended to ensure the purity of food, including condiments, etc., supplied in eating-houses.

War Funds.—The War Funds Amendment Act (No. 10) incorporates the National War Funds Council established under the War Funds Act, 1915.[1] Hitherto the Council has been merely an administrative body incapable of holding property. S. 6 of the amending Act extends the powers conferred upon the Supreme Court by the War Funds Amendment Act, 1918, with respect to the establishment of schemes for the administration of war funds, the purposes of which have lapsed or have never been sufficiently defined. The last-mentioned Act required that the substituted purposes should be identical with or analogous to purposes for which a war fund could be established. This restriction on the discretionary powers of the Court is now removed.

Acts Interpretation.—The Acts Interpretation Act (No. 11) is a consolidation, with minor amendments, of the Acts Interpretation Act, 1908, and its several amendments. The new Act contains little new matter of importance. It may, however, be worth noting that the former definition of the term "United Kingdom" as the "United Kingdom of Great Britain and Ireland" has been omitted, and the definition of the term "Imperial Parliament" (which formerly was "the Parliament of the United Kingdom of Great Britain and Ireland") has been altered to read "the Parliament of the United Kingdom." A new provision (by way of a substantive amendment of the law, and not merely as a declaratory definition of the law) has been added to the effect that where power is given by any Act to make by-laws, rules, orders or regulations, that power shall include the power to prescribe a fine or penalty not exceeding £5 for the breach of any such by-laws, rules, orders or regulations. No other substantial alteration of the law has been made.

[1] See *Journal of Comparative Legislation*, New Series, No. xxxviii, p. 106.

Amusements-tax.—In furtherance of the policy gradually to get rid of the special forms of taxation adopted during the war, a further exemption from amusements-tax has been made by the Amusements-tax Amendment Act (No. 12), and no tax is now payable save in cases where the price of admission exceeds 2*s*. The former exemption was fixed at 1*s*.

Registration of Births and Deaths.—The Births and Deaths Registration Act (No. 13) is a consolidation, with amendments, of the Births and Deaths Registration Act, 1908, and its amendments. The only alteration of note made in the law is with respect to the late registration of births. Hitherto if a birth was not registered within the time prescribed by the Act or within a limited extension of that time, it could not be registered at all save pursuant to special legislation. Special extension Acts were accordingly passed from time to time to admit of the completion of the records of vital statistics. (See, for example, s. 2 of the Births and Deaths Registration Act, 1920.) The law as altered will permit of the registration of a birth at any time, but such registration will not operate to relieve any person from liability to prosecution for the offence of having failed to give notice of the birth or to register the same within the time properly limited.

Masseurs.—The Masseurs' Registration Amendment Act (No. 14) makes various amendments of the Act of 1920.[1] In particular (following the legislation of the State of Victoria) it defines "Massage" in the following terms:

> The use by external application to the human body of manipulation, remedial exercises, electricity, heat, or light, for the purpose of curing or alleviating any abnormal condition of the body, or the use for such purpose of any other method of treatment that may be recognized by the Governor-General in Council as an approved method of performing massage, but does not include the internal use of any drug or medicine, or the application of any medical or surgical appliance except so far as the application of such appliance is necessary in the use as aforesaid of manipulation, remedial exercises, electricity, heat, light, or other approved method.

The Act also contains a declaratory statement in the following terms:

> The method of treatment commonly used by persons who describe themselves as "chiropractors" is not massage within the meaning of the principal Act, and "chiropractors," unless otherwise qualified, are not entitled to be registered under the principal Act.

This declaratory provision affords to the class of person to whom it refers a protection from the penal provisions of the principal Act, while it is free from any suggestion that the Legislature has any confidence in the claims made by chiropractors as to their ability to diagnose or cure or alleviate disease.

Engineers.—The Engineers' Registration Act (No. 16) makes provision for the registration of persons qualified to describe themselves as engineers. The Act provides for the constitution of a registration Board on which are representatives of persons qualified as civil engineers, electrical engineers and mechanical engineers. Provision is made for the recognition of certificates in engineering granted by Institutes outside New Zealand and also for the holding of examinations of persons who may hereafter qualify within New Zealand. It is made an offence by the Act for any unregistered person to use in connexion with his business any written words, titles, initials or abbreviation intended to cause or

[1] See *Journal of Comparative Legislation*, Third Series, vol. iv, pt. ii, p. 99.

which may reasonably cause any person to believe that he is registered as an engineer.

Local Bodies' Loans.—S. 4 of the Local Bodies' Loans Amendment Act (No. 17) amends the provisions of the principal Act (*i.e.* Local Bodies' Loans Act, 1913), with reference to the requirements of the Sinking Fund to be established for the repayment of "converted loans." The requirement under the 1913 Act was for a Sinking Fund of an amount sufficient to pay off the "converted loan" at maturity. It was represented that this requirement unduly restricted the freedom of local authorities in arranging their finances, and the requirement has now been modified by providing for a Sinking Fund of an amount to be fixed by the local authority, by resolution, being not less in any case than 1 per cent. per annum of the amount of the converted loan.

S. 5 of the amending Act enables a local authority, on the application of the holder of a number of like debentures issued by that local authority, to cancel those debentures and to issue in lieu thereof a consolidated debenture for the full amount but subject to the terms and conditions of the cancelled debentures. It frequently happens that the whole or a very large portion of the debentures issued by a local authority in respect of a loan are taken up by one lending institution. As these debentures each have coupons attached for half-yearly or other periodical payments of interest, the custody of the debentures and the periodical dealings with them involve a work of some magnitude. The amendment will permit of any two or more debentures of one issue being cancelled and being replaced by one debenture for the full amount, with a resultant saving of labour and expense, and of storage room (a not inconsiderable item).

Police Force.—The Police Force Amendment Act (No. 18) makes provision, *inter alia*, for the conduct of official inquiries in cases where officers of the Police Force are charged with any breach of duty. Where any such charge is proved against an officer of the Force, provision is made for the punishment of the offender by disrating, or dismissal, or the imposition by his superior officers of a monetary penalty.

Wireless Telegraphy.—The Post and Telegraph Amendment Act (No. 19) makes additional provisions with respect to wireless telegraphy. S. 5 prohibits the sale of apparatus intended for use in connexion with wireless telegraphy save pursuant to a licence issued by the Minister of Telegraphs (the purpose being to facilitate the tracing of unauthorized "listeners in"). S. 6 makes provision for the rendering of financial assistance to persons or companies engaged in "broadcasting," who may agree with the Minister of Telegraphs to maintain to his satisfaction a broadcasting service comprising approved programmes of matters of entertainment, instruction or information. S. 7 of the Act is somewhat novel in principle; companies engaged in broadcasting having been threatened with judicial proceedings for infringement of patent rights, provision is made that all persons and companies, parties to agreements made with the Minister as above referred to, shall be deemed to be agents of the Post and Telegraph Department, with the result that all actions for infringement become actions against the Crown instead of against an individual or company. In any such case the provisions of s. 32 of the Patents, Designs and Trade-marks Act, 1921 (*cf.* 9 & 10 Geo. V, c. 80, s. 8), are made applicable.

Borstal Institutions.—The Prevention of Crime (Borstal Institutions

Establishment) Act (No. 20) makes provision for the establishment of "Borstal Institutions" for young offenders, and is framed on the lines of Part I of the Prevention of Crime Act, 1908 (Imperial). The legislation now under consideration merely places on a statutory basis the system of reformative treatment which has been practised in New Zealand for a number of years, and no radical change in that system is contemplated. The Act does, however, make provision for greater elasticity in administration and in the classification and segregation of offenders. *Inter alia*, provision is made for the transfer to Borstal Institutions of inmates of "Industrial Schools" and "Reformatory Homes." In certain cases, inmates of Borstal Institutions who are found to be incorrigible or to exercise a bad influence over other inmates may be transferred by the Minister of Justice from a Borstal Institution to a prison, there to serve the residue of their sentence of detention. Provision is also made for the release on licence of inmates of Borstal Institutions, but persons so released from the institution remain under supervision for a definite time. The system of payment of wages first adopted in 1910 in the case of ordinary prisoners has been extended to apply to the inmates of Borstal Institutions.

Taxation.—The Land and Income-tax (Annual) Act (No. 21) prescribes the rates of land-tax and income-tax payable for the year ending March 31, 1925. Compared with the rates fixed for the preceding financial year (by 1923, No. 25), a reduction of 5 per cent. has been made in the case of land-tax and 13⅓ per cent. in the case of income-tax.

The Land and Income-tax Amendment Act (No. 22) makes several amendments of the Land and Income-tax Act, 1923 (in which the method of assessment, as distinguished from the rates of taxation, is prescribed). The present amending Act makes provision, *inter alia*, for an increased exemption from land-tax in respect of mortgaged lands. It also extends the exemption from income-tax hitherto allowed in respect of War Pensions granted in New Zealand, and now exempts from such tax all such pensions whether granted in Great Britain or within any other part of the British Dominions.

The law with respect to the recovery of unpaid land-tax has been modified. By s. 147 of the Act of 1923 unpaid land-tax could be recovered not only from the owner of the land as at the time that the tax accrued but from successors in title or from mortgagees. It has been represented that the liability to pay this tax is an undue burden upon a successor in title or a mortgagee who may have acquired his interest in ignorance of the outstanding land-tax. To avoid this difficulty, the amending Act provides that unpaid land-tax shall constitute a charge on the land in which it is payable, but that the amount of such charge shall not be recoverable from a successor in title, tenant or mortgagee unless the charge is registered against the title within a limited time after it has accrued.

Mortgages Extension.—The Mortgages Final Extension Act (No. 25) is intended to bring to an end the special protection first afforded to mortgagors (as the result of the war) by the Mortgages Extension Act, 1914, extended by the Mortgages Extension Act, 1919.[1] The present Act applies only to the same mortgages as those to which the Act of 1919 applied (*i.e.* to mortgages in existence on October 24, 1919). Although

[1] See *Journal of Comparative Legislation*, Third Series, vol. iii, pt. ii, p. 89; and vol. v, pt. ii, pp. 108 and 114.

the Act of 1919 is repealed, its provisions are in effect continued in operation until March 31, 1925, when (subject to the provisions of the Act as to extension orders) a mortgagee is at liberty to commence proceedings for the enforcement of his rights under the mortgage. The main feature of the present Act is not, however, the statutory extension of the protection already afforded to mortgagors, but the new provision which it contains for the making by the Supreme Court (or in certain limited classes of cases by the Magistrate's Court) of "extension orders." Application for an extension order must be made by the mortgagor concerned not later than January 31, 1925. On the hearing of the application the Court is directed to take into consideration:

(*a*) The effect of the continuance of the mortgage upon the security;
(*b*) The inability of the mortgagor to pay off the mortgage;
(*c*) The conduct of the mortgagor;
(*d*) Any hardship that would be inflicted upon the mortgagee or the mortgagor by the continuance of the mortgage or by its enforcement.

Having regard to these and all other relevant considerations, the Court is empowered, if it thinks fit, to *extend* the term of any mortgage in respect of which application for an extension order is made to a date not later than March 31, 1927. In addition to the foregoing matters, the Act remedies an oversight in the original Mortgages Extension Act, 1914, and subsequent enactments by expressly excluding from any period prescribed by a Statute of Limitations, any period covered by the operation of the Acts in question.

Government Railways.—The Government Railways Amendment Act (No. 26) relates principally to the classification and payment of the Government Railways Department. Hitherto the schemes of classification, with scales of salaries, have been prescribed by statute and all amendments have had to be made directly by the Legislature. The present Act empowers the Governor-General to provide by regulations for the classification of the Department and for the payment of salaries and wages, thus bringing the Department into line in this respect with other Departments of State.

Stamp Duties.—The Stamp Duties Amendment Act (No. 27) amends in various particulars the Stamp Duties Act, 1923, which in its turn repealed and re-enacted with modifications the Stamp Duties Act, 1922.[1] The most important of the amendments effected by the Act now under consideration have reference to mortgage duty. This form of taxation was first introduced in 1915 as a form of war taxation and has been generally unpopular. Notwithstanding that the person primarily liable for the tax is expressed to be the mortgagee, the tax is ultimately borne by the mortgagor, and it is contended by many that the tax is therefore scientifically unsound. Up to the present, however, the Government has not seen its way to abolish this form of taxation, although it has shown its willingness to remove so far as practicable the graver hardships occasioned by it. The present Act is intended to remove some of the difficulties that have arisen with respect to "mixed" mortgages. In this connexion it is to be noted that mortgage duty is payable only with respect to mortgages of land and that mortgages of chattels are exempted. Hitherto the Commissioner of Stamp Duties has in the case of mixed mortgages apportioned the mortgage debt between the land and the chattels, and has charged mortgage duty only on the

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 99.

amount apportioned to the land. This practice has been objected to and provision is now made whereby the mortgagee himself is entitled to determine how the mortgage debt is to be apportioned between the land and the chattels. Where this is done the mortgage over the land is made security only for such portion of the mortgage debt as is covered by the mortgage duty which has been paid. By paying additional mortgage duty from time to time the mortgagee is entitled to increase the amount for which the land is security. This general rule is subject, however, to an important exception in the case of mortgages to secure current accounts. Although in this, as in other cases, the mortgagee may increase the value of his security by the payment of additional mortgage duty, the additional security so provided is available only for moneys which may become owing after payment of such additional duty or within a limited period (one month) before such payment. The other amendments made by the Act now under consideration introduce no new principles, but are intended merely to modify the principal Act so as to avoid undue or unnecessary hardship.

Medical Practitioners.—The Medical Practitioners Amendment Act (No. 28) amends in several particulars the law relating to the registration of medical practitioners. The principal Act, which was passed in 1914, conferred (subject to certain conditions as to reciprocity) an absolute right to registration on the holders of certain "foreign" diplomas. This right is somewhat restricted by the amending Act, which empowers the registering authority to require any applicant, the holder of a "foreign" diploma, to pass an examination in medicine and surgery to be prescribed and conducted by the New Zealand University. This modification is applicable notwithstanding that the applicant may be registered in the United Kingdom, if his registration in the United Kingdom is by virtue of any such "foreign" diploma. The amending Act also makes provision for the removal from the New Zealand register of persons registered by virtue of qualifications obtained outside New Zealand, where such persons have afterwards been removed for misconduct from any register in the country in which their qualifications were obtained. Any person whose name is so removed is given a right of appeal to the Supreme Court.

In addition to the provisions of the principal Act and the present amendment with reference to removal from the register, certain disciplinary powers (including power to impose fines and to suspend from practice) are conferred on the Medical Council (*i.e.* on the registering authority). These disciplinary powers are exercisable in cases where a medical practitioner may be guilty of "grave impropriety" or "infamous conduct in a professional respect," in circumstances not sufficiently grave to render his removal from the register necessary in the public interest. No order of suspension under this provision can be made for more than twelve months nor without the prior consent of the Attorney-General. A right of appeal to the Supreme Court is given from all penalties so imposed by the Medical Council. A further provision intended to protect the public interest requires that a medical practitioner who has been temporarily detained in a mental hospital shall not on his discharge resume practice as a medical practitioner without having first obtained a licence from the Medical Council.

Offences Punishable Summarily.—The Police Offences Amendment Act (No. 29) relates to certain offences punishable on summary conviction. S. 4 makes several alterations of the law with respect to Sunday trading.

The maximum penalty has been increased from £1 to £5, and the permitted exceptions have been somewhat extended and modernized. The exceptions allow, *inter alia*, the preparation, printing and publication of a daily newspaper, but not its sale. Under the principal Act, persons found on premises by night without lawful excuse may be convicted as "rogues and vagabonds." It has sometimes happened (for example, in the case of "lovers") that persons have been convicted under this section who are not rogues and vagabonds in the familiar sense of the term. It has generally been admitted that in such cases the stigma resulting from conviction has constituted an unduly harsh punishment. The amending Act has accordingly made special provision with respect to the offence of "being found by night in any building, etc., without lawful excuse but under circumstances that do not disclose the commission of or the intention to commit any other offence." By s. 10 of the present Act amended provision is made with respect to the unlawful use of motor-cars or other vehicles or means of conveyance.[1] Every person who makes such unlawful use of a motor-car or other vehicle or means of conveyance is liable to a fine of £20 or to imprisonment for three months, and provision is made for payment to the owner of a sum not exceeding £20 by way of compensation for any loss or injury suffered by him (but not so as to supersede any action for damages that he may have). The offence of obtaining credit by fraud which hitherto has been only an indictable offence is in certain cases reduced to an offence punishable on summary conviction. Provision is also made for the supervision by the police of wrestling contests.

Meat and Dairy Produce Export Control.—The Dairy Produce Export Control Amendment Act (No. 30) extends the powers conferred on the Board established by the Dairy Produce Export Control Act, 1923. The immediate occasion for the extension of powers arose in connexion with the display of dairy produce made by the Board at the Empire Exhibition at Wembley. Although the powers conferred on the Board by the principal Act were probably wide enough to include all reasonable powers of advertisement, it was nevertheless considered doubtful if those powers were sufficiently wide to enable the Board to make such a display for purposes of advertisement as it contemplated at Wembley. The doubt having been raised, express powers of a general nature, defining the Board's powers of advertisement and display, etc., were conferred. By the Meat Export Control Amendment Act (No. 38) corresponding powers are conferred upon the Meat Export Control Board; and a certain measure of co-operation between the Boards is provided for.

Crown Lands.—The Land Act (No. 31) is a consolidation of the Acts relating to the disposition of lands of the Crown in New Zealand. The last consolidation of the Land Acts was made in 1908 (when a general consolidation of public statute law was made). One of the main features of the policy of the Government which came into power in 1912, and which is still in office, had reference to the acquisition by Crown tenants of the fee-simple of their holdings. To give effect to this policy numerous amendments of the law (commencing with the Land Laws Amendment Act, 1912) have from time to time been passed, with the result that to construe the Land Laws had become a most difficult and complicated task. The Act now under consideration (consisting of 390 sections) consolidates the provisions relating to ordinary Crown lands. It is

[1] See *Journal of Comparative Legislation*, Third Series, vol. iii, pt. ii, p. 93.

somewhat unfortunate that it was not possible at the same time to incorporate or to make a separate consolidation of the law relating to "settlement" land, *i.e.* land which has been purchased by the Crown from private owners for purposes of closer settlement. This, however, will probably be done in the 1925 session. In the present consolidation an attempt has been made to remove so far as possible the inconsistencies and obscurities known to exist in the consolidated Acts, and for that purpose recourse was had not only to the decision of the Courts but also to the legal opinions given from time to time by the law officers. Though doubtless the new Act has its own share of problems to present for solution, it is nevertheless confidently hoped that it will be of considerable value not only to the officers whose duty it is to administer it, but also to that section of the public who are concerned directly or indirectly with the tenure of Crown lands and for whom a consideration of the law in its former state must have been a task of hopeless complexity. In the process of consolidation it was found necessary wholly to rewrite many provisions with a view to expressing more clearly their apparent intention, but with certain exceptions of minor importance the consolidation does not alter the law.

Trustees.—The Trustee Amendment Act (No. 33) adopts the provision of s. 21 of the Imperial Trustee Act, 1893 (defining the powers of executors and trustees to compound debts, etc.). The only other amendment of general importance is one which makes provision for the appointment of advisory trustees to act in conjunction with the trustees appointed by a creator of a trust. The provisions relating to advisory trustees are practically identical with provisions passed in 1913 for the appointment of advisory trustees to act in conjunction with the Public Trustee. The term "responsible trustee" has been adopted to signify the trustee in whom the trust property is vested, as distinguished from the advisory trustees who, as their name implies, are counsellors of the responsible trustees without executive functions.

Civil Pensions.—The Pensions Amendment Act (No. 34) increases the benefits provided by former Acts for persons in receipt of old-age pensions and widows' pensions.

With respect to old-age pensions it provides, *inter alia*, for an allowance (in addition to a pension) of 2*s.* 6*d.* a week to be paid to every person having no accumulated property or means of support other than his pension. Provision is also made for the granting of pensions in respect of blindness. Such pensions are granted to persons of the age of twenty years or upwards, who are totally blind and who satisfy the following conditions:

(*a*) Continuous residence in New Zealand for not less than ten years;
(*b*) Blindness occurring in New Zealand;
(*c*) No relatives capable of supplying adequate maintenance;
(*d*) Good character.

In ordinary cases the pension for the blind is computed at the rate of £39 per annum diminished by reference to annual income or accumulated property in the same manner as old-age pensions. A novel principle is however introduced. In order to encourage a spirit of self-help and usefulness, provision is made whereby the personal earnings of blind pensioners are subsidized from the Consolidated Fund by an allowance equal to 25 per cent. thereof, with a limit of £3 10*s.* a week on the total receipts of the pensioner from all sources.

Poultry.—The Poultry Act (No. 37) extends to the poultry industry a measure of that regulatory control by the Government which has proved so successful as applied to other primary industries. After a somewhat chequered history the poultry industry seems likely to be placed in a secure position by the successful establishment of an export trade. To safeguard this trade by establishing and maintaining confidence in our products in the markets abroad is one of the main objects of the Act. It deals first with the conduct of the industry in New Zealand and secondly with the control of export. Ss. 3 and 4 provide for the appointment of the necessary officers and define their powers. Ss. 5–8 relate to the keeping of poultry under sanitary conditions and to the outbreak and control of disease. The necessary provisions with regard to the grading and export of poultry and eggs will be made by Orders in Council and regulations under powers expressly conferred by the Act in that behalf.

Motor-vehicles.—The Motor-vehicles Act (No. 39) provides a new system for the registration and licensing of motor vehicles. Hitherto the registration of motor vehicles has been entrusted to certain local authorities. Under the new system, registration will be effected by the Government, provision being made by the Act for the appointment as officers of the Public Service of a Registrar of Motor-vehicles and of such number of Deputy Registrars as may be required. In practice the Registrar and Deputy Registrars will, so far as practicable, be officers of the Post and Telegraph Department. In addition to the requirements of registration every motor-vehicle is required by the Act to be annually licensed. The net revenues derived from registration and annual licensing, after deducting a limited amount towards the expenses of administration, are made payable to the Public Account, to the credit of the Main Highways Account, and are to be made available for the maintenance of main highways established as such under the Main Highways Act, 1922.[1] Provision is also made for the examination and licensing of drivers of motor-vehicles. The fees payable for drivers' licences are payable to the funds of the local authority by which the licence is issued. In addition to the registration and licensing of vehicles and the licensing of drivers, the Act makes provision for regulating the use of motor-vehicles.

Patents, Designs and Trade Marks.—The Patents, Designs and Trade-marks Amendment Act (No. 40) repeals ss. 26 and 29 of the 1921–2 Act (relating to compulsory licences and the revocation of patents), and substitutes the provisions of 9 & 10 Geo. V, c. 80, ss. 1 and 2. The main reason for the alteration is that in this respect the law of New Zealand may be made uniform with the law of England. The present Act also makes provision for the extension by the Registrar of the time within which a complete specification may be accepted. This provision is framed on the lines of s. 22 of the principal Act (relating to the restoration of lapsed patents); so far as I know, there is no corresponding provision elsewhere.

Gaming.—The Gaming Amendment Act (No. 41) makes further provision for the regulation of the sport of horse-racing and for the use of the totalizator at race-meetings. Provision is made for the appointment as officers of the Public Service of Inspectors of Totalizators.

Company Law (Co-operative Dairy Companies).—The purpose of the

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. ii, p. 100.

Dairy Industry Amendment Act (No. 42) is to remove certain difficulties created by recent judicial decision with reference to the constitution and powers of co-operative dairy companies. Contrary to the established practice of co-operative dairy companies, it has recently been held by the New Zealand Supreme Court that a co-operative dairy company has no authority, apart from express contract with individual shareholders, to require its members, by virtue of provisions in the articles of association, to accept additional shares in the company. By reason of this decision, doubts had arisen as to the validity of certain past allotments of shares. The present Act validates the allotment of all shares so allotted before the commencement of the Act with two exceptions, viz.:

(1) It does not interfere with the particular allotment of shares which was the subject-matter of the judicial decision referred to above.

(2) It does not validate allotments which were objected to in writing by the shareholders within a limited time after allotment.

It has also been recently decided by the New Zealand Court of Appeal that a co-operative dairy company cannot, by means of its articles of association, require its shareholders to supply to the company milk, cream or other dairy produce, but that the supply of such produce must be the subject-matter of special agreements. It is provided by the present Act that existing articles of association, in so far as they purport to impose such an obligation on shareholders, shall for a period of six months be deemed to be valid and effective notwithstanding the judicial decision aforesaid. The period of six months has been fixed to allow the dairy companies affected time to enter into special supply-agreements with their shareholders.

Motor Lorries.—The Public Works Amendment Act (No. 46) confers on the Governor-General power to make regulations with respect to the use of "motor-lorries." For the purposes of the Act the term "motor-lorry" is defined to include every motor-vehicle used for hire or used for commercial purposes in the carriage of passengers and goods and which with its maximum load exceeds 2 tons in weight. The purpose of this provision is to enable general regulations governing heavy motor-traffic to be made, which will supersede any local by-laws that may be made by local authorities in respect of the same subject matter. Provision is made for the apportionment among the several local authorities in whose district such regulations may operate of the licence fees received in respect of motor-lorries. All moneys so received by any local authority are to be expended in respect of the maintenance of roads and streets. To a certain extent the Act deals with matters for which provision is made in the Motor-vehicles Act (*supra*).

Local Rates.—The Rating Amendment Act (No. 47) excludes from the definition of "rateable property" all lands and buildings used for purposes of Sunday-schools. The exemption does not apply in the case of lands and buildings used for pecuniary gain or profit.

Chattels Transfer Act.[1]—Coincident with the expansion of the trade and business of the Dominion of New Zealand, legislation has of necessity advanced to meet the growing demands. Particularly has this been so in the case of the Chattels Transfer Statutes, which have proved not sufficiently elastic, especially in matters concerning the pastoral and agricultural industries, for the growing requirements.

[1] Contributed by Mr. E. D. Bell, who, with Mr. Skerrett, K.C., drafted the Bill.

The Government of the Dominion invited suggestions from business people, banks and traders for the improvement of the law and a consolidated and amending statute has been passed (No. 49) repealing the prior statutes and dealing with many new subjects.

The usual hire-purchase contracts have received special treatment. The Act deals only with such agreements made by manufacturers, traders and dealers, and is confined to contracts relating to the articles specified in a schedule. Agreements to which the Act applies are not "instruments," need not be registered, and are protected from the order and disposition clauses of the Bankruptcy Act. The Governor-General in Council is empowered to add to the articles in the schedule further articles which may be the subject of hire-purchase agreements to which the Act is to apply.

There are also provisions for empowering the owner of such chattels to remove them when fixed or attached to land or building. In the case of a hire-purchase agreement executed by a private individual, not a manufacturer, trader or dealer, the special provisions do not apply. Milking and shearing machinery does not become part of the land through being attached.

The new Act removes an ambiguity concerning registration of mortgages and charges given by companies registered under the Companies Act, 1908, by excluding such securities from the Chattels Transfer Act and providing for their registration under the Companies Act, while at the same time giving such mortgages and charges the benefit of some useful provisions of the Chattels Transfer Act by declaring such provisions to be applicable to such mortgages and charges.

The Act also provides that registration of an instrument is notice, which provision is extended to registered securities given by companies registered under the Companies Act.

The inclusion of after-acquired stock in a stock security has long been the law in New Zealand. It was considered whether the law should be extended to authorize specifically the inclusion of after-acquired chattels generally. This was not approved, but the avoidance of after-acquired chattels comprised in a security has been limited in the new Act as against particular persons.

In New Zealand current accounts constitute the common course of business between the customer and banks, stock and station agents and mercantile houses. A secured current account may at any time become in credit. Provision is made in the new Act for removing possible doubt as to the continuance of the security should the account for the nonce have come into credit.

A stock security is made automatically to imply a covenant to deliver to the grantee the wool from sheep comprised in the security unless that implication is negatived.

There is an extensive series of schedules at the end of the Act containing implied covenants, the object being to shorten instruments as much as may be possible. Any implied covenant may, however, be altered in its wording, and any new covenants may be inserted in the instrument.

Other new subjects dealt with are that "title deeds" are expressed not to be chattels; entries in auctioneers' books are not included in the definition of "instrument"; provisions of the Property Law Act whereby a mortgagee applying to a Registrar of the Supreme Court to conduct

the sale of the mortgaged property can buy the property are extended to apply to mortgages, charges and debentures registered under the Companies Act ; the time for registration of documents executed outside the Dominion is extended ; and many inconsistencies in the former Acts are remedied.

The new Act came into force on January 1, 1925. A comparison of its contents with those of the English Bills of Sale Acts will illustrate how legislation in the Dominions, in order to provide for constantly advancing requirements, breaks bounds far beyond the somewhat conservative principles of the English Acts, though the principles of such statutes in the Dominions are based upon the principles embodied in English Bills of Sale legislation. As in the case of the land transfer system, which was developed in the Colonies to meet new circumstances, and eventually was adopted by the Mother Country, it may be anticipated that the same result may follow in the case of some of the provisions of the New Zealand Chattels Transfer Act. Whether that be so or not, the Act will be found to contain many subjects worthy of consideration by those interested in Bills of Sale Acts.

Education.—The Education Amendment Act (No. 50) amends in various particulars the administrative provisions of the Education Act, 1914. It provides, *inter alia*, for the establishment of what are known as Junior High Schools, *i.e.* schools intermediate between primary schools and secondary schools. The establishment of Junior High Schools is more or less experimental ; the intention is to give to those children whose formal education will in ordinary course be completed at the age of fifteen years courses of instruction suited to their needs, and to those pupils who will afterwards attend a secondary school an introduction to the subjects usually taught in the secondary school course, while, at the same time, they complete their ordinary primary school course. Speaking generally, secondary education in New Zealand has hitherto commenced at about the age of fourteen years. Under the new system those children to whom Junior High Schools are available will commence their secondary education, while completing their primary education, at about the age of twelve years.

An important innovation is introduced by the amending Act in respect of the registration and employment of teachers. Provision is made for the compilation of a register of teachers, and thereafter no person is competent to be appointed or to continue in any position as a teacher in a school (notwithstanding that he may have the necessary educational qualifications and certificates) unless his name appears on the teachers' register. The Director of Education is empowered to remove from the register the name of any person found guilty of immorality or gross misbehaviour or other conduct unfitting him for employment as a teacher, but every person whose name is so removed is given a right of appeal to a stipendiary magistrate.

Other amendments made by the Act under review are intended to effect economy and to promote efficiency by securing a measure of co-ordination in the government of related technical high schools and secondary schools.

Sale of Fruit.—The Fruit Control Act (No. 54) relates to the control of fruit intended for export from New Zealand and also of fruit intended for local consumption. In so far as it relates to fruit intended for export, the Act is on the same lines as the Meat Export Control Act, 1921, and

the Dairy Produce Control Act, 1923.[1] As was the case with the Dairy Produce Control Act, the commencement of the Act, in so far as it relates to the control of fruit intended for export, was postponed pending the taking of a poll of producers. In so far as the Act relates to the control of fruit intended for local consumption it makes provision for the constitution of districts, and local control operates only with respect to fruit grown in districts where the Act has been brought into operation pursuant to a poll of producers. The proposal to control fruit intended for local consumption has, as a matter of fact, been generally rejected by the producers.

To provide funds to defray the cost of administration provision is made for a levy not exceeding 3*d.* a case to be paid on all fruit intended for export and on all fruit intended for sale and produced in a district in which Part II of the Act (relating to control of local sales) is in operation.

The machinery provisions of the Act are practically identical (save for necessary adaptations) with the corresponding provisions in the Meat Export Control Act and the Dairy Produce Export Control Act above referred to.

Relief of Discharged Soldiers.—The Discharged Soldiers' Settlement Amendment Act (No. 57) extends the scope of the relief for which provision was made by the Discharged Soldiers' Settlement Amendment Act, 1923. That Act related to soldiers to whom loans had been granted by the Government for the acquisition of land in respect of such loans (the relief afforded being by way of a reduction of the capital debt). The present amendment makes provision for the reduction of debts having their origin in loans made for other purposes (*e.g.* purchase of stock, fertilizers, plant, etc.).

Export of Honey.—The Honey Export Control Act (No. 58) makes, with respect to the export of honey, provisions similar to those that have been already reviewed in this *Journal* with respect to the export of meat, dairy produce and fruit. Subject to necessary adaptations, the Act is practically identical in terms with the Dairy Produce Control Act. The commencement of the Act was made subject to a poll of producers taken on a proposal that the Act be brought into operation.

Parliamentary Elections.—The Legislature Amendment Act (No. 61) introduces (so far as New Zealand is concerned) a new policy in the matter of the compilation of electoral rolls.[2] Hitherto the law has been content to create the right to be enrolled. The present Act imposes an obligation on every qualified person to become enrolled. The purpose of the amendment is not so much to secure the franchise to a person who does not sufficiently value his privilege, but to ensure that no unqualified person shall be enrolled, and that no person shall continue to be enrolled after his right has terminated; in other words, the purpose of the Act is to secure and maintain "clean rolls." To give effect to its intention the Act abolishes the existing rolls and imposes on all qualified persons an obligation to make application in writing for enrolment within a limited time. Failure to make such application is made punishable by fine.

British Nationality.—The British Nationality and Status of Aliens (in New Zealand) Amendment Act (No. 62) removes with respect to the

[1] See *Journal of Comparative Legislation*, Third Series, vol. v, pt. ii, p. 122.

[2] The system of compulsory enrolment is in force in the Commonwealth of Australia and in some, if not all, of the Australian States.

native inhabitants of Western Samoa the requirement of the Act of 1923 that applicants for naturalization in New Zealand must possess an adequate knowledge of the English language.

Government Accident Insurance.—Hitherto the business of Accident Insurance has been carried on by the Government Life Insurance Commissioner. By the Government Accident Insurance Amendment Act (No. 63) this business is separated from the business of Life Insurance, and will in future be carried on by the State Fire Insurance Department.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* His Honour Sir A. K. Young, *Chief Justice.*]

During the year 1924 nineteen Ordinances were passed, the principal of which were as follows:

Immigration.—No. 7 repeals the Indian Immigration Ordinance, 1891, and re-enacts certain provisions thereof, *inter alia*, provisions relating to:

(i) Free return passages to India; (ii) care and maintenance of orphans of Indian parents; (iii) division of property between male and female Indians who have ceased to cohabit.

No. 8 repeals the Polynesian Immigration Ordinance, 1888, and re-enacts certain provisions relating to free return passages to the place where recruited.

Patents.—No. 12 amends the Patents Ordinance, 1879, by making provision for the registration in the Colony of patents granted in the United Kingdom—a fee of £1 is payable for certificate of registration.

Customs.—No. 16 raises the Customs duty of 2*d.* to 3*d.* per gallon on oils, benzene, gasolene, etc., and other liquid products of petroleum.

No. 18 raises the Port and Customs Service Tax from 1¼ to 2½ per cent.

Harbours and Wharfs.—No. 15 contains a schedule of wharfage dues on goods imported or exported and also a list of exemptions.

There are three Ordinances for the purposes of the General Revision of the Statute Law of the Colony.

2. GILBERT AND ELLICE ISLANDS COLONY.

[*Contributed by* His Honour Sir A. K. Young, *Chief Judicial Commissioner.*]

During the year 1924 seven Ordinances were passed.

Export.—No. 1 introduces the definition of the time of exportation taken from s. 137 of the Customs Consolidation Act, 1876 (Imperial). This amendment has been deemed necessary to meet the case of vessels loaded with copra catching fire and their cargo destroyed whilst still in port. The owners thereupon claiming rebate of export duty on a cargo which may be fully covered by insurance.

Patents.—No. 3 makes provision for the registration in the Colony of patents granted in the United Kingdom. The Ordinance contains in a schedule the scale of the fees payable. A uniform fee of £1 is payable on application for and includes registration, etc.

Fanning Islands (Taxation).—No. 4 takes power to exempt the Fanning Islands, Limited, for import duties and certain other forms of taxation, in consideration of a fixed annual payment. Under the provisions of the Ordinance a similar arrangement has been arrived at between the Government and the Pacific Cable Board so far as Fanning Island is concerned.

Immigration.—No. 6 deals with the immigration of aliens into the Colony and provides, *inter alia*, that unless specially exempted no alien shall land in the Colony without the leave of a Visiting Officer, and unless he has in his possession a passport duly viséd. Penalties are provided and power of deportation is conferred. Masters and agents of vessels are in certain cases made liable for breaches of the Ordinance. The schedule to the Ordinance contains the necessary forms.

Public Inquiries.—No. 7 provides a simple procedure for inquiring into cases of sudden or suspicious deaths and also for holding inquiries into the cause or origin of fires.

3. BRITISH SOLOMON ISLANDS PROTECTORATE.

[*Contributed by* His Honour Sir A. K. Young, *Chief Judicial Commissioner.*]

Eight laws styled King's Regulations were made in the Protectorate during the year 1924.

Stock Branding.—No. 1 deals with the trespass and branding of stock and other animals. The Regulation authorizes the destruction of unbranded stock found trespassing upon land under cultivation; this liability is in addition to payment of compensation according to rates prescribed by the Regulation. The mode of branding is contained in a schedule to the Regulation—a different position for branding is required in the case of horses when compared with stock.

Customs.—No. 2 amends the Solomon's Customs Regulation, 1907, by inserting an interpretation of the expression "time of exportation." (See No. 1 of the Gilbert and Ellice Ordinances, p. 174.)

Corporal Punishment.—No. 4 governs the infliction of corporal punishment where sanctioned by and awarded under any law or Regulation in force. Male persons sixteen years of age or over may be flogged; male persons under that age may be whipped only. Flogging is by means of the ordinary cat-o'-nine-tails, whipping by means of a tamarind rod or light cane, etc. The maximum number of strokes in cases of flogging is limited to twenty-one; in cases of whipping, six or twelve strokes according to age. A Resident Commissioner may substitute a whipping for a flogging, though the offender may be sixteen years of age or over. All cases of flogging must be carried into effect in the presence of a medical officer—who is empowered to order the flogging to be suspended either wholly or after partial execution should he consider the offender to be physically unfit to undergo the punishment.

No female shall be sentenced to corporal punishment, and no person shall be sentenced to undergo corporal punishment more than once for the same offence.

Corporal punishment may not be inflicted in public.

Patents.—No. 6 provides for the registration in the Protectorate of patents granted in the United Kingdom (see No. 3 of Gilbert and Ellice Ordinances, p. 174).

Adultery.—No. 7 provides for the punishment of natives for adultery. The penalty extends to both husband and wife, upon the complaint of one or the other, as the case may be, and the guilty party on conviction is liable to a fine of £5, or in default to imprisonment with or without hard labour not exceeding three months. In the case of a second or subsequent conviction, to imprisonment not exceeding six months without the option of a fine.

Immigration.—No. 8 deals with the Immigration of Aliens (see No. 6 of the Gilbert and Ellice Ordinances, p. 175).

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* E. L. MATTHEWS, ESQ., C.M.G., K.C.]

Acts passed—40.

In 1924 there were two sessions of the Union Parliament owing to the following circumstances. It had met about the usual date—January 25. On April 5 there was announced the result of a by-election in which the Government candidate had been defeated. The Government still possessed a majority in the House of Assembly of seven or eight. The estimates of expenditure and budget proposals and a long programme of legislation had still to be considered. It was, however, announced by the Prime Minister on April 7 that as the Government thought it desirable to be assured that it had still the confidence of the country to carry on its work, and in view of the importance of the matters for consideration, he had obtained the consent of the Governor-General to a dissolution. Parliament was prorogued and dissolved a few days later, after large votes on account had been taken and embodied in two of the six Part Appropriation Acts of the year. The elections, however, owing to the provisions of the electoral law, the distances to be traversed and the proclamations and notices to be issued in scattered rural constituencies, did not take place until June 17. The electorate placed the Government in a large minority. A new Government composed of both branches of the opposition took office on June 30, and the new Parliament was summoned to meet on July 25 to pass the necessary financial and appropriation legislation.

Under all these circumstances neither a bulky nor a very interesting volume of legislation for 1924 is to be expected. Measures of interest and even urgency had inevitably to be shelved for the year. The most urgent of these was the consolidating, co-ordinating and amending Companies Bill, which, after seven or eight years, at last looked like securing a place on the Statute Book. Although the actual number of Acts passed during the session is up to the average, out of the forty Acts, twelve are appropriation Acts, two others are annual and common form measures relating respectively to pensions and financial adjustments in expenditure of public funds; two others re-enact annual taxation measures: (1) as to rates of income-tax and super-tax; and (2) as to customs and excise tariffs. The latter contains some minor amendments, but includes also the abolition of the unpopular tax on patent and proprietary medicines. One other Act re-enacted and extended

for another twelve months the annual Acts which have been in force since 1920 and which provide for boards to control, fix or reduce the rents of dwellings.

The passing of the estimates, and the necessary taxation measures, enabled Parliament to be prorogued on September 8 until 1925; for it was hardly possible for the new Government to have ready by that date Bills to give effect to its electoral programme.

Only four, out of the forty Acts passed, call for more than a cursory notice. Of these two were passed before April, sponsored by the late Government; the other two, also measures of the late Government, were passed in the new Parliament.

Liquor Control.—The first of these four Acts (No. 5) is the Wine and Spirits Control Act. The Wine and Brandy industry in the Cape Province is, as is well known, almost as old as Cape Colony itself. In recent years the wine and brandy farmers have, in disposing of their products, taken advantage to some extent of co-operative methods. Chief among the co-operative societies has been "The Co-operative Wine Farmers' Society of South Africa." It has been considered that the interest of this powerful industry could be furthered, and with public advantage, by developing this method of disposal. The new Act prohibits any person from selling, acquiring or utilizing wine of the vintage of 1924 or any subsequent year, in the Cape Province for the purpose of distilling or converting it into spirits except through or with the consent of this co-operative society. The Act further prohibits any person distilling wine in that Province except for his own use, unless it has been acquired through or with the consent of the co-operative society. It further prohibits any wine grower from selling or otherwise disposing of any brandy or spirits distilled from his wine except through or with the consent of the society.

The Act then goes on to prohibit either the society or any wine grower from selling spirit which is the produce of the vine, for use for potable purposes or for the fortification of wine in Africa south of the Equator, at a price less than a price based on the fixed minimum price charged by the society to wholesale traders for wine for distillation purposes from the same vintage *plus* the cost of distillation.

The Act further imposes on the society the duty of supplying, on demand, wine, or wine of a particular type, made in a particular locality for the purposes of its distillation or conversion into spirits, to any distiller, wholesale trader or association of distillers or traders or to a co-operative society which is in a position to make satisfactory arrangements for the payment of the wine and willing to take the quantities usually supplied to distillers or wholesale traders. The society must not differentiate as to price between different purchasers, *except* in the case of wines purchased for the manufacture of spirits for maturation or dematuration purposes, or for vinegar, or for use in the preparation of medicines, or for non-potable purposes, or for export.

The remainder of the Act provides machinery for carrying out these provisions, such as the supplying of returns by licensed dealers in wines and spirits and by distillers, and the constitution of an appeal board to review decisions of the society at the instance of aggrieved persons.

Even as regards the Cape Province the Act only comes into operation when the Minister of Agriculture notifies in the *Gazette* that he is satisfied that wine growers producing 75 per cent. of the wine grown in that

Province are members of the particular co-operative society named above ; and even then the Government is empowered to exclude from the operation of the Act any district in the Cape Province if satisfied that the exemption of such district, owing to its geographical position, will not substantially affect the objects of the Act.

Conversely, the Government may apply the Act to any other Province of the Union whenever the Minister is satisfied that 75 per cent. of the wine growers of that other Province are members of a co-operative society formed under the Co-operative Societies Act, 1922.

It seems unnecessary in view of these provisions to add that the Act was passed as an agreed Bill and at the instance of the wine and brandy farmers and other interests affected by it.

Industrial Conciliation.—The second Act which calls for special notice is the Industrial Conciliation Act (No. 11). This Act was also passed in the late Parliament and on introduction by the late Government. The Bill had been under consideration during the session of 1923, when its form and terms had been much modified in Select Committee on the initiative of one of the leading members of the opposition. Previous legislation on this matter existed in the Transvaal only. That legislation was Act 20 of 1909 based on, and following closely, the Lemieux Act of Canada. It is repealed by the new Act, which applies throughout the Union. The introduction and passage of the latter was due largely to the industrial troubles of 1922 and to the report of the Commission (known popularly as the Brace Commission), which carried out investigations after those troubles. Its terms may be summarized as follows: It applies to every industrial and public utility undertaking, to every industry, trade and occupation and to every employer or employee engaged therein, including Government undertakings. One industry, however, is excluded from the operation of the Act, viz. agriculture. With a view to the prevention and settlement of industrial disputes the Act provides for the establishment and registration of an industrial council to consider matters of mutual interest to employer and employees. Such a council may be established in respect of any industry on an agreement between any employer or employer's organization and a registered trade union or group of registered trade unions. The Minister of Labour, if satisfied that such an agreement is in accordance with the Act, authorizes, on application by the parties thereto, the registration of the industrial council.

Should a registered industrial council and any registered employers' organization or registered trade union be able to arrive at a further agreement for the extension of the council's activities to any other industry, trade or occupation, the Minister may register such an extending agreement.

An industrial council may be removed by the Minister from the register when it has ceased to function, or if a resolution is passed by a majority of its members in favour of its removal from the register, or when a majority of employers' representatives or of employees' representatives have resigned from the council.

When an industrial council settles a dispute or any other matter, a memorandum of the terms of settlement is to be drawn up and signed by the parties' representatives and transmitted to the Minister for registration.

The Act then goes on to provide for the constitution of conciliation

boards for dealing *ad hoc* with any industrial disputes which may arise in any industry, undertaking, trade or occupation. If in any area no industrial council exists in respect of a particular undertaking, industry, trade or occupation, any trade union or employers' organization (not necessarily a "registered" union or organization) or any number of employers or employees considered by the Minister to be sufficiently representative in that area of the undertaking, industry, trade or occupation, may apply to the Minister for the appointment of a conciliation board to consider and determine the dispute. But if the dispute is in regard to the engagement, suspension, promotion, derating or transfer of one individual employee or the assessment of contract prices to be paid to one individual, the Minister is not to appoint a board unless, in his opinion, a matter of principle is involved.

A conciliation board is to consist of such number of persons as may be agreed between the parties or, if they fail to agree, as the Minister may determine. One half of such number must be employers nominated by the employers' organization and the other half must be employees nominated by trade unions or by the employees concerned. If there is no employers' organization or no trade union sufficiently representative of the employers or employees respectively, direct or part nomination is permitted, or the Minister may himself appoint the members of the conciliation board. The board, when constituted, appoints its own chairman.

Then follow provisions applicable both to industrial councils and conciliation boards.

A mediator may be appointed by the Minister on the application of both parties to any industrial dispute, or the Minister may make such an appointment on his own initiative, if he thinks that a settlement of the matter can thereby be assisted.

The mediator, when appointed, may attend meetings of the industrial council or conciliation board, as the case may be, and may act as chairman of any such meeting, presumably displacing temporarily the elected chairman. He must confer with the members, conduct inquiries and investigations, and generally endeavour to effect a settlement of the dispute. He must further report to the Minister the results of his attempts at mediation.

The next provision is in regard to arbitration to settle a dispute. A majority of representatives of employers and a majority of representatives of employees on an industrial council or on a conciliation board may agree to abide by the decision of one or more arbitrators in order to determine a dispute. Such an agreement must provide for an umpire to give a decision if the arbitrators cannot agree. The appointment of the umpire can be made by the council or the board, or, at the request of the council or the board, by the Minister. An award made by such arbitrators or umpire becomes binding on all parties represented on the council or board. Failure to accept or to carry out the award is a criminal offence. It is also a criminal offence to declare a strike or lock-out when an agreement so to arbitrate has been concluded or during the period provided for the operation of an award on such arbitration.

Industrial councils, conciliation boards and arbitrators are granted special powers as to the calling of witnesses, demanding the production of documents, putting witnesses on oath, and having their requirements in this respect enforced by penal sanctions. Agreements and awards

are published in the *Gazette* and their application may be extended by the Minister to other employers and employees in the same area in the undertaking or industry concerned.

In order that the above provisions may be effective and that those provisions shall have a reasonable chance of operating, it is made an offence for an employer to alter the terms of employment of any of his employees or for an employee to demand such an alteration, unless the one has given to the other a month's notice of the alteration or demand or unless there is an agreement for a shorter notice.

The Act then proceeds to deal with disputes between local authorities and those of their employees who are engaged in the supply of light, power, water, sanitary, transportation, fire brigade or other essential services. If any such dispute has not been settled by an industrial council or a conciliation board, such council or board must call on the parties to agree upon the appointment of an arbitrator to determine the dispute and communicate the result to the Minister, who then, if the parties fail to agree, appoints the arbitrator. That arbitrator's award is final and binding.

Incidental to this is another provision in the miscellaneous chapter of the Act under which the Minister may assume the function of such a local authority which, owing to a strike, lock-out or usurpation of its functions by direct action, is unable to continue to carry on its essential services. The local authority must in such circumstances refund to the Minister any deficit incurred by him in working such services.

A further provision declares to be a criminal offence the declaration of any strike or lock-out until, if there exists an industrial council, such council has considered and reported on the matter in dispute, or, if there is no industrial council, but the matter is one which can be submitted to a conciliation board, until it has been submitted to and reported on by such a board, or until the expiry of any period agreed upon between the parties as a period within which a strike or lock-out shall not take place.

Chapter III of this Act makes provision for the compulsory application to an officer of the Minister's department for registration of trade unions and employers' organizations. The decision whether the union or organization is registrable or not rests with that officer subject to an appeal to the Minister. If, however, the application is in order, registration can only be refused if, in the area in which the union or organization carried on its work, there is another union or organization already registered, and sufficiently representative of the interests concerned.

Registration implies "incorporation," with all the common law powers and restrictions incidental to corporate bodies.

A further chapter of the Act provides for the registration and regulation of private registry offices for those desiring to procure employment.

Board of Trade and Industries.—The Board of Trade and Industries Act (No. 33) received the assent of the Governor-General on September 6 and came into operation four days later.

A board had existed under administrative appointment since 1921 to advise the Government on economic matters, but mainly as to the customs tariff and the encouragement of new industries. It had acquired certain statutory powers under Act No. 28 of 1923.[1] Its period of

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. i, p. 130.

office was to expire on September 30, 1924. In the appointment of its successor the Government considered it desirable that the board should have a statutory constitution and its powers and functions defined by law. The new Act, therefore, provides for a board not exceeding four in number (including the chairman), who are to hold office for not more than three years and be remunerated out of moneys voted by Parliament. Its functions and duties are declared to be investigation of, and advice to the Government on, all matters concerning the economic development of the natural resources of the union and its industries and trade; and in particular on (*a*) the payment of bounties or other form of State aid for industries; (*b*) fiscal policy in so far as it bears on commerce and industry; (*c*) the recasting and revision of the customs tariff; (*d*) the removal of anomalies from time to time in the customs and excise tariffs; (*e*) complaints and recommendations on the working of the customs and excise tariffs; (*f*) combinations, trusts, monopolies and restraints of trade tending to affect the general interest injuriously, especially by restricting production or maintaining or raising prices; and the prevention of such combinations, etc.; (*g*) the dumping of imported goods whereby Union industries are likely to be unfavourably affected; (*h*) the supply of raw materials, labour and technical knowledge for industry and the encouragement of the investment of capital in industry; (*i*) transport and markets for requisites and products of industries; (*j*) the relation between factory and wholesale and retail prices; (*k*) commercial legislation; (*l*) such other matters as the Minister may refer to it for report.

It is declared to be the duty of the board to report as fully as possible on all aspects of any matters referred to it, so far as those aspects may affect the revenue, trade, commercial and economic conditions; with special reference to the probable effect of any action it may recommend on the consumer and those employed in industry. For the purposes of its investigation the board is given the same statutory powers as its predecessor of summoning witnesses, calling for the production of documents and putting witnesses under oath. Such powers are enforceable by penal sanctions on those who fail to comply with the board's requirements in the matter.

Naturalization of Aliens.—The last Act which is of general public interest is the South West Africa Naturalization of Aliens Act (No. 30). The first section of this Act applies to the mandated territory of South-West Africa, the Union Naturalization Act, 1910, and declares that territory to be deemed to be a part of the Union for the purpose of applying that Act. The effect of this section is that a person in the territory who is not a British subject may, in the future, apply to the Union Government for letters of naturalization as a British subject *in the Union*, and if his application, history and circumstances are in conformity with the Act of 1910 he will receive letters of naturalization which will give him the status of a British subject in the Union.

The second section of the Act deals specifically with the ex-enemy subjects now in the territory. It provides that every adult *European* who, being a subject of any of the late enemy powers, was, on January 1, 1924, or at any time thereafter before the new Act came into operation on September 15, 1924, domiciled in the territory, shall, within six months after September 15, 1924, be deemed to have become a British subject naturalized under the Union Act of 1910, unless within that

six months he signs a declaration that he is not desirous of becoming so naturalized.

Lists will be prepared and published in the *Gazette* of persons who become naturalized under this section, and such lists will be conclusive evidence of the facts stated therein subject to the power given to the Administrator of the territory of correcting errors in the list.

The Act will affect some 4,000 or more ex-German subjects. Its introduction was only decided upon after consultation with representatives of the persons affected and after consultation also in Europe between the late Prime Minister of the Union and representatives of the German Government. The question of the national status of ex-enemy subjects in mandated territories has, it will be remembered, been considered by the League of Nations.

Judicature.—Act No. 2 provides for the appointment of an additional judge for the Provincial division with special jurisdiction for any judge of that division to hear water court cases under the Irrigation laws.

Railways.—Act No. 31 provides for the construction of a railway into Northern Zululand to open up certain lands regarded as specially suitable for cotton-growing and sugar.

Farmers' Relief.—Act No. 16 provides for financial relief through the Land Bank to farmers resident in certain districts specially affected by the long summer drought of 1923–4. The relief takes the form of advances for the purchase of live stock, implements, seed and fertilizers which remain the property of the Land Bank till the advance, with all interest thereon, has been repaid. The Act is of temporary operation only, inasmuch as an application for relief must have been made within three months of the proclamation of a district under the Act, and the applicant must have been affected by the drought before the Act came into operation.

Asiatics.—There was the usual crop of amending legislation mostly of a drafting nature or introduced for administrative reasons. These include ten amending Acts. Among them the Asiatic (Cape Malay) Amendment Act (No. 12) is of some interest. It declares that for the purpose of Law 3 of 1885 (Transvaal) and Act 37 of 1919 (Union) or any other relating to Asiatics, no Cape Malay shall be deemed to be one of the native races of Asia. The two laws to which reference is made forbid Asiatics (a term defined therein as including "Malays" as well as members of other native races of Asia) from owning fixed or immoveable property in the Transvaal. Act 36 of 1908, which provides for the registration of all Asiatics in the Transvaal, had specifically exempted *Cape* Malays from its operation, although it otherwise adopted the definition of "Asiatic" contained in Law 3 of 1885. The *Cape* Malays are descended from slaves introduced into Cape Colony from Java in the days of the Dutch East India Company. Their numbers have naturally not increased since 1834 by reason of any introduction from outside South Africa. They have generally confined their homes to Cape Town, or to a radius of 100 miles therefrom, though some of their descendants are to be found in other parts of the Union. On the whole, the Cape Malays have not intermarried with other races—though there has been at times, notably between 1845 and 1850, a certain amount of intermarriage with a certain type of European immigrant into the Cape. But it may be said that they have continued to be a class apart, retaining their own habits, religion and customs. The Act, therefore,

the remedial nature of which is confined to those Cape Malays who were born and are ordinarily resident in South Africa, removes a legitimate grievance that arose from a provision of the Transvaal law which had been overlooked until a recent decision of the Transvaal Courts brought it into notice.

2. CAPE OF GOOD HOPE.

[*Contributed by* G. M. SWIFT, ESQ.]

Ordinances passed—14.

The Provincial Council of the Province of the Cape of Good Hope sat only for a short period during 1924 and no measures of any importance were passed. The principal Ordinances so passed fall under the following heads:

Education.—No. 4 provided for the transfer of an old University College in the town of Graaff-Reinet which had long ceased to be used for the purposes of higher education to the School Board of the district.

Local Government.—No. 9 made provision for the framing of a pension scheme by Municipal and Divisional Councils for the benefit of officers and servants. The Ordinance applied to all whole-time officials other than those paid on a daily or hourly basis and provided for compulsory contributions to the pension fund. No. 11 amended the Divisional Councils Ordinance of 1917 in a few minor respects.

3. NATAL.

[*Contributed by the* HON. MR. JUSTICE F. S. TATHAM, D.S.O.]

The Provincial legislation for 1924 consists mainly of appropriation Acts and municipal borrowing powers. There is one long Ordinance affecting Municipal Government, but it is nothing more than a consolidation of old legislation with amendments of no importance.

4. ORANGE FREE STATE.

[*Contributed by* H. PRING, ESQ.]

In the year 1924 six Ordinances were passed—of which Nos. 1, 2 and 6 were Appropriation Ordinances.

Licences.—No. 3 amends the Licences Consolidation Ordinance (15 of 1921) to provide for the issue of a licence as apothecary, chemist and druggist *only* to persons qualified *by registration* to practise as such. Previously persons qualified to register could obtain licences. A similar amendment is made in respect of dentists.

Municipal.—No. 4 amends the Local Government Ordinance (4 of 1913) by providing for the excess of revenue over expenditure on the Waterworks Account to be allocated between the General Revenue Account and a Reserve Fund. Provision is also made for expenditure of a capital nature in connexion with the Municipal Waterworks to be defrayed from the Reserve Fund.

Shops, Restaurants, etc.—No. 5 consolidates and amends the laws and ordinances in force in the Province relating to shops, restaurants and other similar establishments and also regulates the half-holiday,

the limitation of working hours, annual leave or absence for assistants, and the keeping of working hours registers.

Special provision is made for hairdressers, chemists, garages and certain other privileged shops.

5. NORTHERN RHODESIA.

[It is hoped to publish this Summary in the next *Review*.]

6. SOUTHERN RHODESIA.

[*Contributed by* A. E. SPEIGHT, ESQ., B.A., LL.B., *Secretary, Law Department, and Legal Adviser.*]

The first session of the first Parliament of the new Colony produced a record in legislation, the number of Acts being thirty-three. Several of these were small amending Acts, but there were also some important new measures.

Aliens.—Act No. 2 permits of the revocation of local letters of naturalization.

Audit and Exchequer.—Act No. 16 provides for the collection and payment of public moneys, the appointment, tenure of office and duties of the Auditor-General, the audit of the public accounts and protection and recovery of public property, and generally deals with the control and management of the public finances of the Colony.

Criminal Law.—Act No. 5 gives the Courts various powers in relation to the punishment of offences; suspended sentences, postponement of sentences on fixed conditions, such as compensation for damage done, payment of fees by instalments, and reprimands and cautions are provided for. Certain specified serious crimes are excluded from the scope of the Act.

Extradition.—Local legislation dealing with extradition is repealed by Act No. 3, the Imperial Acts 1870–1906 providing the machinery for dealing with fugitive criminals.

Income-tax.—The most important amendment of Act No. 17 is to abolish the special Court of Appeal from decisions of the Commissioner and gives a direct appeal to a judge of the High Court.

The exemption hitherto granted to the British South Africa Company is withdrawn.

Insolvency.—Act No. 21 consolidates and amends the laws relating to the administration of insolvent and assigned estates. These laws consist of the old Ordinance No. 6 of 1843 as amended. The Act is practically the same as Act No. 32 of 1916 of the Union of South Africa. It would be impossible to give anything like a proportionate measure of comment to the measure, which is of great length. It may be mentioned, however, that the portion of the Act dealing with assignments to creditors is quite new; tacit and legal hypothecs (excluding right of retention) are abolished, except that of a landlord, which is limited to six months' rent. General bonds over immoveable property are rendered ineffective, also the general clause in special mortgages.

Insurance.—Act No. 27 deals with insurance businesses. Registration of companies (which includes persons) is required, also deposits with the Treasury of sums which shall be available to satisfy judgments against such companies. Annual statements of accounts are to be

supplied to the Treasury, also actuarial reports. Certain protection is given to policies of life insurance, for the benefit of the insurer during his life and for his wife, parents and children on death, also for the benefit of married women. There are special provisions dealing with each class of insurance business.

Land Bank.—By Act No. 20 a land and agricultural bank is established and regulated. It is controlled by a board consisting of the manager and four other members nominated by the Governor.

The business of the board is to advance money to farmers and to co-operative agricultural societies and companies and to guarantee the performance of contracts by the latter. The funds consist of money appropriated by Parliament for the purpose.

Law Officers.—Act No. 12 provides for the appointment of the Attorney-General and Solicitor-General by the Governor in Council instead of by a Secretary of State, and gives the Attorney-General the power to delegate his powers and duties in connexion with criminal procedure to an advocate (in practice, one of the other law officers) wherever it may be impossible or inexpedient for him to exercise such powers and perform such duties.

Loans.—Act No. 30 provides for the issue of Loan Certificates.

Also authorizes further loans not to exceed £250,000 at any one time.

Act No. 31 authorizes a loan of such sum not greater than £600,000 as may together with what is available from loans account be required to defray the expenditure set out by this Act, in all £1,111,000.

Municipalities.—Several amendments are made to the Municipal Law by Act No. 32. The first allows for the increase of the number of councillors from three to four for each ward when resolved by the Municipal Council and approved by the Governor in Council.

Power is given to municipalities to establish recreation and sports grounds, etc., and make by-laws for the regulation thereof.

The maximum of a Mayor's allowance is raised to £500 from £250. He may be called upon to account for a portion not exceeding one-third.

Bulawayo Municipality requiring a proper supply of water and electricity, also further improvements, such as a swimming bath and town hall, Act No. 33 was passed giving the necessary powers and facilities. A loan not exceeding £350,000 is authorized, *i.e.* £215,000 for the water scheme, £100,000 for the supply of electricity, £25,000 for town-hall and swimming bath, the balance for the improvement and costs.

The water is to be obtained from the Khami River in such quantity as may be approved by a Water Court.

The electric light and power undertaking of the Bulawayo Waterworks had previously been expropriated by the municipality, and this Act enables payment to be made therefor.

Natives.—Act No. 9 is a very short Act, but of great importance, as it amends the definition of "native labourer" in the "Native Labour Regulations Ordinance, 1911," extending the meaning to include all native employees, whether recruited under the terms of the Ordinance or not. As originally interpreted by the Courts, the various provisions of the Ordinance, which regulate the employment of natives, applied only to "recruited" natives and not to the majority of native servants.

Act No. 10 allows the period of grace for the payment of native tax for six months to three months, and also simplifies the procedure regarding proof of non-payment.

Act No. 14, among less important amendments to the Native Regulations, gives power to the Native Department to order natives to remove from unalienated land to Reserves, and similarly where natives are removed for private farms they may be ordered to a Reserve.

Parliament.—Act No. 4 defines and declares the powers and privileges of Parliament ; secures freedom of speech and debate on proceedings in Parliament ; and gives protection to persons employed in the publication of parliamentary papers.

Act No. 11 sets out the procedure relating to the introduction of private Bills.

Act No. 18 fixes the salary of the Speaker.

Pension Funds.—Act No. 15 consolidates and amends the law relating to pension funds. A Consolidated Pension Fund is established consolidating the Civil Service, the Widows', and the Police Officers' Pension Funds. Separate accounts are to be kept by the Treasury relating to the three branches, and the Act lays down what is to be charged to each account. An investment board is provided for and the mode of investment of available funds is set out. No expense of management will be borne by the funds. In addition to a pound per pound contribution in respect of all contributions to the Civil Service Pension Fund and the Police Officers' Pension Fund, sums which may be required to enable the pension funds to meet payments will be paid by the Consolidated Reserve Fund.

Public Health.—Act No. 19 repeals the Public Health Act of 1883 of the Cape Colony and substitutes a comprehensive and modern statute. Based to a large extent on the law of the Union of South Africa, the functions of the Public Health Department are stated by the Act to be to guard against the introduction of disease into the Colony, the prevention, limitation and suppression of infectious and contagious diseases, to advise and assist local authorities, to promote and carry on researches and investigations in connexion with the prevention and treatment of human diseases, to prepare and publish reports and statistics and other information relative to, and generally to promote, public health.

The Minister is given very wide powers of making regulations for the purposes of the Act, and is assisted by the advice of an Advisory Board, of which he is chairman, consisting of the Chief Medical Officer and three other members not being officers in the public service.

The local authorities are municipalities and sanitary boards in respect of urban areas and otherwise the magistrates of the district.

Railways.—Act No. 22 provides for the scrutiny by the Government of the working of railways in the Colony. The Governor-General may appoint any person or persons to inquire fully into and report upon the conduct, administration, finances and general affairs of any railway or railways and every railway official or other person is bound to furnish any books, accounts or information required of him by the Commissioner so appointed. (Such a scrutiny and report has since been made by Brig.-General Hammond.)

Weights and Measures.—The old Cape Acts dealing with this subject are repealed and the whole law consolidated by Act No. 29. Standard weights and measures are established and provision made for the assizing of weights and measures, the weighing and measuring of instruments, the use of weights and measures and instruments.

Frozen Meat.—Act No. 34 was passed confirming an agreement

between the Government and the Imperial Cold Storage and Supply Co., Ltd., with respect to the erection and establishment of abattoirs and refrigerating works within the Colony and the operation of the same for chilling and freezing meat for export.

Under the agreement the Company is given the sole right of exporting chilled and frozen meat (excluding bacon) for a period of twelve years.

The Imperial Company binds itself to register expeditiously a Company which will forthwith erect, construct and maintain refrigerating works capable of dealing with 20,000 head per annum, and will extend the same as may be required from time to time.

The Government guarantees the Company's net profits to be at least 10 per cent. per annum and will share in the profits if over 10 per cent., and may after seven years expropriate the undertaking as a going concern at a price agreed upon or settled by arbitration.

7. TRANSVAAL.

[*Contributed by* G. HARTOG, ESQ.]

During the session of 1924 12 Ordinances were passed, of which 6 were Appropriation.

Local Government.—No. 6 amends the Local Government Ordinance (9 of 1912) in certain respects:

(1) Amending s. 15 of the principal Ordinance by enabling town councils to decide at their last meeting before the annual election whether the Mayor is to be elected by the registered voters in the municipality and laying down the procedure if they so decide, viz. that candidates are to be nominated from amongst councillors within three days after the annual election; requisitions as prescribed by Ordinance 8 of 1912, s. 31, signed by not less than twenty-five registered voters with the acceptance of the candidate shall be sent to the Town Clerk within the said time. If only one councillor is so requisitioned he is declared duly elected, if more than one then there shall be an election, as provided by the Municipal Elections Ordinance 8 of 1912, *mutatis mutandis*.

(2) Amending s. 17 enabling Town Councils to vote councillors an allowance subject to the approval of the Administrator.

(3) Amending s. 73 so as to empower Town Councils to establish, equip, maintain and carry on within or outside a municipality afforestation works for the production and disposal of timber and to do all things necessary in connexion therewith.

No. 12 further amends the Local Government Ordinance 9 of 1912. S. 87 (10), as amended by Ordinances 6 of 1918 and 8 of 1919, enabling local authorities to make grants of money to certain further institutions. S. 88 (7) by giving power to regulate and license dealers in second-hand goods. S. 92 by empowering local authorities to impose conditions prohibiting the licensee or his servants, or others from residing in any shop where is carried on the business of manufacture or supply of articles of food and drink for human consumption. S. 143 (1*b*), by empowering the Administrator upon application of any village council to apply the Municipalities Powers of Expropriation Ordinance, 1903, for any specific purpose there laid down. S. 169 by empowering local authorities to regulate by resolution (and not by by-law) all charges it may make in connexion with tramways.

Motor-vehicles.—No. 8 amends the Motor-vehicle Ordinance (6 of

1915), s. 5, by excluding the provisions of the Ordinance from application to drivers duly licensed in Bechuanaland, Southern Rhodesia, and Swaziland.

Teachers' Pensions.—No. 9 amends the Transvaal Teachers' Pension Ordinance, 1916, by enabling male officers who have attained the age of fifty-five to retire on pension, and provides for the deduction to be made from the annuities paid to such officers, viz. two-fifths of 1 per cent. in respect of each month or part thereof by which age sixty exceeds the actual age of such officer at retirement.

Auction Sales Tax.—No. 11 amends the Auction Sales Tax Ordinance (9 of 1923), s. 10 (*d*), by exempting " cotton-lint " for export from the tax.

BRITISH EMPIRE.

VII. BRITISH INDIA.

[*Contributed by the* Hon. Sir Henry Moncrieff Smith, C.I.E.]

The ten Legislatures of British India passed 59 Acts only in 1924. This was only just half of the legislative output of 1923; the decreased activity may be ascribed in the main to the fact that the nine provincial Legislative Councils and the Legislative Assembly were dissolved at the end of 1923, and some time had to elapse before the new bodies settled down and new Ministers were prepared to formulate new legislative proposals.

1. ACTS OF THE INDIAN LEGISLATURE.

Acts passed—19.

Criminal Law.—The Indian Legislature has of late been dealing with social legislation of a somewhat important character. In 1923 Act No. 20 [1] of that year was passed, which amended the Indian Penal Code for the purpose of giving effect to certain articles of the International Convention for the suppression of traffic in women and children signed at Geneva in March 1922. A new section then added to the Code penalized the procuration of a minor girl under the age of eighteen years. This resulted in an inconsistency in the Penal Code, for in the more serious offences of selling and buying minor girls for immoral purposes the age-limit was fixed by sections 372 and 373 of the Code at sixteen years. The coming into force of Act No. 20 of 1923 was therefore postponed for the purpose of enabling the Legislature to consider the discrepancy. Act No. 5 of 1924 accordingly amends both these sections by substituting "eighteen" for "sixteen." A Government proposal to make the same alteration in the section dealing with kidnapping was rejected. Meanwhile Government had introduced a further Bill to amend the Criminal Law "for the purpose of affording greater protection to persons under the age of eighteen years." The proposals, which were very comprehensive, underwent considerable curtailment during the passage of the Bill through the Legislature. In the end sections 372 and 373 of the Penal Code were again amended by Act No. 18 of 1924. Those sections as they now stand impose a penalty which may extend to imprisonment for ten years on any person who sells, lets to hire or otherwise disposes of, or buys, hires or otherwise obtains possession of, any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse or for any unlawful and

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. iii, p. 145.

immoral purpose. The law lays down that where a female person under the age of eighteen years is disposed of to, or obtained by a prostitute or the keeper of a brothel, there shall be a presumption of an intention that she shall be used for the purpose of prostitution. At the same time the new law recognizes certain more or less irregular unions, common in India, which are not regular marriages, but are recognized by the personal law or custom of the community to constitute a *quasi*-marital relationship.

Cantonments.—Act No. 2 is an important measure of nearly three hundred clauses, consolidating and amending the law relating to military cantonments in India. It is based on the report of a committee appointed by the Government in 1921 to consider what changes were necessary in the law for the purpose of importing into the administration of cantonments the spirit of the reformed system of government. A great deal of matter which was formerly contained in statutory rules and executive orders, has been embodied in the statute, which goes a long way towards assimilating the administration of cantonments, where previously the military authority was almost supreme, to that of municipalities.

Immigration.—The Immigration into India Act (No. 3) was introduced by Dr. (now Sir) H. S. Gour, a non-official member of the Legislative Assembly. The Act enables the Government of India to make rules for the purpose of securing that persons not being of Indian origin, domiciled in any British possession (which includes mandated territories), shall have no greater rights and privileges as regards entry into and residence in British India than are accorded by the law and administration of such possession to persons of Indian domicile. The Act contains a clause that it shall only come into force when notified by the Government of India ; it has not yet been notified. It was intended as a frank measure of retaliation ; the Government did not oppose its passage though it did not disguise its dislike of the measure.

Central Board of Revenue.—Act No. 4 provides for the constitution of, and the transfer to, a Central Board of Revenue appointed by the Government of various functions in regard to Customs and Income-tax hitherto vested in other authorities.

Coinage.—Act No. 10 amends the Indian Coinage Act, 1906,[1] so as to enable the Government to call in coins, other than those specified in the Act. Such coins will cease to be legal tender after a period of not less than twelve months, to be fixed by the Government. Hitherto though coins could be called in they did not cease to have a legal tender value so that the Government's attempts to check counterfeiting were hampered.

Cotton Cess, Customs and Tariff.—The Indian Cotton Cess Act, 1923,[2] enabled a cess to be levied on cotton produced in India, and either exported by sea or consumed in mills in India. Act No. 1 of 1924 amends this Act for the purpose of enabling the cess to be levied on cotton exported by land to French and Portuguese possessions in India.

Act No. 8 repeals the provision of the Sea Customs Act, 1878, which exempted from customs duty goods belonging to the Government. This action was taken as the result of a recommendation made by the Indian Fiscal Commission.

[1] See *Journal of Comparative Legislation*, New Series, vol. viii (No. 18), p. 287.
[2] *Ibid.*, Third Series, vol. vii, pt. iii, p. 147.

The only laws governing the collection of land customs were two local Acts in force in the Madras and Bombay Presidencies. Act No. 19 repeals these two Acts, which had proved to be very defective in working, and enables an efficient administration to be set up for the collection of land customs, for the most part assimilating the procedure to that of the Sea Customs administration by applying many provisions of the Sea Customs Act, 1878, to the land customs administration.

Act No. 9 amends the Indian Tariff Act, 1894, so as to enable customs duties to be levied generally on dutiable goods crossing the land frontiers of British India. Hitherto the power had been confined to the frontiers of certain foreign European settlements in India, and of some of the Indian States.

Income-tax.—Act No. 11 makes several amendments in the Indian Income-tax Act, 1922.[1] The more important of these enables the tax to be levied on the profits of an association or club, which, being neither a company nor a firm, had hitherto been exempt.

Stamps.—New stamp duties on various instruments were imposed by the Indian Stamp (Amendment) Act, 1923,[2] which came into force on the day on which it received the Governor-General's assent. It was thought that sufficient notice of the changes had not been given; and Act No. 13 of 1924 was therefore passed enabling instruments which had been duly stamped according to the old law within six months after the amending Act of 1923 came into force to be validated by payment of the difference between the old and new stamp duties.

Banking.—The failure of the Alliance Bank of Simla brought to light the fact that the Imperial Bank of India Act, 1920,[3] contained no provision enabling the Imperial Bank to intervene effectively, without the assistance of the Government, in a financial crisis, for the purpose of averting or facilitating the winding up of a banking concern. The Act was therefore amended by Act No. 17 of 1924, which enables the Imperial Bank to make advances in such cases upon the security of the assets of the concern.

Protection of Industries.—The Steel Industry (Protection) Act (No. 14) was passed for the purpose of providing "for the fostering and development of the steel industry in British India." The Bill was the outcome of a resolution passed by the Legislative Assembly early in 1923 to the effect that the fiscal policy of the Government might be legitimately directed towards the fostering and development of industries "with due regard to the financial needs of the country and the well-being of the community." In accordance with the terms of that resolution a Tariff Board was established in July 1923, with instructions to examine the question of extending protection to the manufacture of steel in India and of the effect of any recommendation it might make on industries dependent on the use of steel, especially the wagon, locomotive and similar industries. The Bill was introduced in accordance with the recommendations of the Tariff Board's report. In the form in which it became law it provided (*a*) for a bounty decreasing from year to year for a period of three years on steel rails and fish-plates of a specified description manufactured in British India from Indian iron ore, and (*b*) for bounties not exceeding seven lakhs of rupees a year for

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. iii, p. 136.
[2] *Ibid.*, Third Series, vol. vii, pt. iii, p. 149.
[3] *Ibid.*, vol. iv, pt. iii, p. 132.

three years upon iron or steel wagons for use on Indian railways, where a substantial portion of the component parts had been manufactured in British India. The Act contains a provision that new companies will not be able to obtain the benefit of the bounties unless they are registered in India and have a rupee share capital, and unless a specified proportion of the directors are Indians.

Post Office.—The Indian Post Office Act, 1898, is amended by Act No. 16, so as to provide that prepayment of postage due may be made by prepayment of the value of impressions made by a stamping machine under the control of the department.

Statute Law Revision.—The Repealing and Amending Act (No. 7) was of the usual character. By Act No. 6 the law relating to Criminal Tribes, hitherto to be found in five separate enactments, is consolidated. The Bill was prepared by the Statute Law Revision Committee constituted in 1921.

Acts 12 and 15 make minor amendments in the Indian Soldiers (Litigation) Act, 1918, and the Indian Motor Vehicles Act, 1914, respectively.

2. ACTS OF THE GOVERNOR-GENERAL.

Finance Act.—In 1924 the Finance Act had again to be made law by the exercise of the powers of certification vested in the Governor-General by s. 67B of the Government of India Act. Controversy in the Legislative Assembly, as in the previous year, centred round the Salt Tax. The Bill, as introduced in the ordinary course, provided for a duty on salt at the rate of two rupees per maund, which was eight annas less than the rate prevailing in the previous financial year. At its second reading in the Assembly the Bill was rejected altogether. The Governor-General then recommended a new Bill containing essential taxation only, and proposing to fix the duty on salt at its old rate of one rupee four annas per maund. The Assembly refused leave to introduce this Bill; it was laid before the Council of State and passed by that Chamber without amendment, and thereupon received the assent of the Governor-General. The Act makes unimportant changes in a few of the tariff rates, and leaves postal rates, income-tax and super-tax unaltered.

3. MADRAS.

Acts passed—5.

Ports.—The Tuticorin Port Trust Act (No. 2) was enacted to provide for the more efficient administration and development of the port of Tuticorin. It enables a Board of Trustees to be constituted and defines the Board's functions on lines similar to those of other Port Acts. It contains one novel section which disqualifies for membership of the Board of Trustees any person who "not being an Indian by birth is domiciled in any British possession or colony as defined in the Interpretation Act, 1889, the laws of which do not confer or recognize rights and privileges in respect of resident Indians which are equal to those conferred or recognized in respect of other residents." A similar measure of retaliation was enacted by the Indian Legislature in Act No. 3 of 1924.[1]

[1] See p. 190.

President's Salary.—Under the Government of India Act the Legislative Councils were to elect their own Presidents for the first time in 1925, and the salaries were to be such as might be determined by an Act of the Local Council. Madras Act No. 5 was accordingly enacted to fix the President's salary.

The other three Acts of 1924 were amending measures of minor importance.

4. BOMBAY.

Acts passed—14.

Rent.—Act No. 3 extends up to the end of 1925 the provisions of the Bombay Rent (War Restrictions) Act, 1918,[1] in their application to Karachi, and also contains a provision intended to prevent monthly tenants or tenants holding a lease for an indefinite period from subletting their premises without the written permission of the landlord.

Municipalities.—Act No. 4 amends the Bombay District Municipal Act, 1901. It removes the disqualification which prevented women from serving as Municipal Councillors, and it also provides that in the case of grave misconduct or default on the part of a Municipal Corporation the Government may dissolve the municipality and direct a general election. Previously the only course open to Government in such a case was to supersede the Municipal Body and replace it by a Committee of Management.

President's Salary.—Act No. 12 was passed in accordance with the terms of the Government of India Act to determine the salary of the first President of the local Legislative Council.

Children.—In enacting the Bombay Children Act (No. 12), the Bombay Legislative Council followed the example of the other two Presidencies. This Act closely follows the provisions of the Madras Children Act, 1920.[2] It contains also a chapter based on sections 12, 14, 16, 17, 20, 21 and 24 of the English Statute, the Children Act, 1908,[3] which provided punishments for general ill-treatment of children and young persons, for causing them to beg, for allowing them to frequent brothels, and for causing or encouraging their seduction. The Act alters from 15 to 16 the age limit for children who may be sent by a Court to a Reformatory School.

The other Acts passed were of local or minor importance.

5. BENGAL.

Acts passed—1.

Rent.—The Calcutta Rent (Amendment) Act extends for a further period of three years the provisions of the Calcutta Rent Act, 1920.[4] It was introduced by a non-official Member and was passed despite Government opposition.

[1] See *Journal of Comparative Legislation*, Third Series, vol. ii, pt. ii, p. 129.
[2] *Ibid.*, Third Series, vol. iv, pt. iii, p. 133.
[3] *Ibid.*, New Series, vol. x (No. 22), p. 299.
[4] *Ibid.*, Third Series, vol. iv, pt. iii, p. 136.

6. UNITED PROVINCES.

Acts passed—5.

Stamps.—The United Provinces Stamp (Second Amendment) Act, No. 2, extends for a further year the provisions of local Act No. 5 of 1923, by which various stamp duties had been temporarily increased with the object of raising revenue.

Settled Estates.—The Agra Estates (Amendment) Act No. 4 confers on landholders in Oudh other than taluqdars rights to settle their estates similar to those enjoyed by the taluqdars in Oudh and by landholders in the province of Agra.

The other measures passed made unimportant amendments in existing local laws.

7. PUNJAB.

Acts passed—4.

Stamps.—The Punjab Stamp (Amendment) Act, No. 1, makes, for the purpose of raising revenue, a further change in the general law of British India by imposing special taxation on transfers of immoveable property in towns in the Punjab.

President's Salary.—Punjab Act No. 2 is another of the series of Acts passed in local Councils for the purpose of fixing the salary of the elected President of the Council.

Stage Carriages.—The Stage Carriages (Punjab Amendment) Act, No. 3, doubled the maximum fee leviable on a licensed stage carriage. The old rate had been in force since 1861.

Motor Vehicles.—The Punjab Motor Vehicles Taxation Act, No. 4, prescribes a system of licences and taxes for all motor vehicles kept for use in the Punjab. The taxes are for the most part heavy, varying from Rs. 15 for a light motor bicycle to Rs. 700 for large vehicles capable of seating more than 32 persons.

8. BURMA.

Acts passed—6.

Rural Self-government.—The Burma Rural Self-government (Amendment) Act (No. 2) gives power to the district councils to impose penalties for breaches of by-laws made by them for the regulation of markets.

The Burma Village Amending Act (No. 4) was passed with the object of bringing village administration more into line with the present condition of affairs in the province and of modernizing some of the provisions of the Burma Village Act, 1907.[1] The chief change is the introduction of village committees constituted for taking over several of the functions hitherto vested in the village head-man. The committee is intended to act in an advisory capacity towards the village head-man, and as a bench is given judicial powers to try minor criminal offences and civil suits. At the same time certain provisions of the Burma Village Act, 1907, which were necessary when the province was less developed, such as those which gave power to requisition labour for the repair of roads and

[1] See *Journal of Comparative Legislation*, New Series, vol. ix (No. 20), p. 388.

embankments and to requisition supplies and transport for Government officers travelling on tour, have been modified.

Universities.—The University of Rangoon (Amendment) Act (No. 3) was passed with the object of introducing greater popular and representative elements in the composition of the Council of the University of Rangoon and to invest the reformed Council with greater discretionary powers in matters affecting public interest, such as the question of admitting outlying colleges to the privileges of affiliation. The framers of the measure anticipated that it would render the Rangoon University more in keeping with the constitutional reforms introduced since the passing of the principal Act.

Acts Nos. 1, 5 and 6 were of no particular importance.

9. BIHAR AND ORISSA.

Acts passed—3.

Municipalities.—When in the reconstitution of the province of Bihar and Orissa a portion of the Central Provinces was included in the new province, the Central Provinces Municipal Act, 1903, was maintained in force in the one municipality included in that portion. Bihar and Orissa Act (No. 1) of 1924 was passed for the purpose of repealing the Central Provinces law in so far as it applied to this municipality and of bringing into force the general law of municipalities (Bihar and Orissa Act (No. 7) of 1922) [1] in force in the province.

Encumbered Estates.—The Chota Nagpur Encumbered Estates (Amendment) Act, 1876, provided that litigation on behalf of the disqualified proprietor of an encumbered estate should be conducted by the Manager temporarily in charge of the estate. The case in which two estates with conflicting interests might be parties to the same litigation and might be under the management of the same individual was not contemplated. Bihar and Orissa Act (No. 2) was enacted to provide that in such a case each estate should be represented in the proceedings by an independent representative appointed by the Revenue Commissioner of the Division.

Aerial Ropeways.—The Bihar and Orissa Aerial Ropeways Act (No. 3) makes provision for the regulation and inspection of aerial ropeways with special regard to the needs of the mining districts. It enables the promoter of an aerial ropeway, subject to adequate safeguards, to acquire land or to obtain rights of user in the land of others without acquiring it. It provides for control by Government over the construction, opening and working of ropeways, for inspection and for the safety both of the general public and of the persons employed in working the ropeway.

10. CENTRAL PROVINCES.

Acts passed—nil.

The inactivity of the Central Provinces Legislative Council in regard to legislation is to be ascribed to the attitude of the Swaraj party, which was in a majority in the Council, towards the Government.

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. iii, p. 143.

11. ASSAM.

Acts passed—2.

Act No. 1 reduces the annual salary of the Deputy President of the Assam Legislative Council from Rs. 2,500 to R. 1. The Act was a pure measure of retrenchment and was passed with the full concurrence of the Deputy President.

Act No. 2 fixed the salary of the first elected President of the Assam Legislative Council at Rs. 500 *per mensem*.

12. REGULATIONS UNDER S. 71, GOVERNMENT OF INDIA ACT.

One regulation only was made in 1924. This repealed the North-West Frontier Province Pre-emption Regulation, 1906, which was no longer necessary, as the local administration had decided to apply to the Frontier Province the pre-emption law in force in the Punjab.

13. ORDINANCES UNDER S. 72, GOVERNMENT OF INDIA ACT.

One Ordinance was promulgated, entitled the Bengal Criminal Law Amendment Ordinance. It was designed to supplement the ordinary criminal law for the purpose of dealing with the violent activities of the revolutionary party in Bengal. It enabled the Local Government to direct that certain offences committed by members of associations whose objects included the commission of crimes of violence, should be tried by three Commissioners appointed by the Government, and including at least two experienced sessions judges or persons qualified for appointment to a High Court. The Commissioners were given full powers of sentence, and an appeal from their decision lay to the High Court. The Ordinance also enabled the Government to make an order restricting the movements of, or committing to prison, any person suspected of having committed or of intending to commit a crime of violence. By way of safeguard the Ordinance required that the Government should have the information and evidence on which it acted scrutinized by two judges, and it also provided for periodical visits of a committee to persons placed under restraint.

The Ordinance has since been replaced by an Act made by the Governor of Bengal, and has been supplemented by an Act made by the Governor-General. In any case under the terms of S. 72 of the Government of India Act it could only have remained in force for six months.

VIII. EASTERN COLONIES.

1. CEYLON.

[*Contributed by the* Hon. L. M. Maartensz, *Acting Puisne Justice.*]

Ordinances passed, 24.

Few Ordinances of interest were framed in the year 1924.

Flood Protection.—No. 4 was introduced to provide against damage by flood. S. 3 empowers the Governor to declare any area in the Colony a flood area ; s. 4 provides for the preparation of a scheme by the Director of Irrigation for the protection of such flood area against floods.

After a period of three months during which the Scheme may be inspected by persons interested, the Governor in Executive Council may make an order for the carrying out of the Scheme subject to such modifications if any as he may think fit. Ss. 5 and 6 (1).

S. 6 (3) provides for the carrying out of the Scheme and (4) for the payment of compensation if necessary.

S. 8 provides for the maintenance of the Scheme by the flood authority created by s. 7.

S. 9 empowers the Governor in Executive Council to make regulations for the management of the flood area.

Ss. 11 and 12 provide for the repayment of the cost of executing the Scheme and the cost of maintenance by the imposition of a yearly rate on the lands within the flood area liable to submergence.

The method of assessment and means of recovery is provided by ss. 14, 15 and 16.

S. 18 empowers the Governor in Executive Council to change the position of any thoroughfare, where such change is necessary for the carrying out of a scheme for the protection of an area against floods.

Penal Code.—No. 5 introduces a new chapter, numbered ix *a*, to deal with offences relating to elections.

Plant Protection.—No. 10 was introduced to prevent the introduction into and spread in the island of weeds, pests and diseases injurious or destructive to plants and to the sanitation of plants.

S. 2 defines the terms " plant," " pests," " diseases," and " weeds." S. 3 empowers the Director of Agriculture or any inspector or sub-inspector to enter upon any land for the purpose of ascertaining whether plant pests, diseases or weeds exist therein. S. 6 penalizes any contravention of the Ordinance or any regulation made under it.

S. 9 (1) gives effect to the regulations contained in the schedule and (2) empowers the Governor in Executive Council to make regulations prohibiting the importation of plants, for the fumigation and quarantine of plants on being landed, for preventing the outbreak and dissemination of disease and of the destruction of weeds.

The Insect Pest and Quarantine Ordinance, 1901. The Plant Pests Ordinance, 1907, and the Insect Pest and Quarantine (Amendment) Ordinance (No. 30) of 1919 are repealed.

Medical Council.—Ordinance No. 24 creates a Council for the purpose of performing the functions with respect to the registration and maintenance of a correct standard of professional conduct of and among members of the medical and dental profession which had been performed by the Council of the Ceylon Medical College.

By s. 3 the Council is to be composed of a President and four members nominated by the Governor in Executive Council, one member elected by the lecturers of the Ceylon Medical College, two members registered by the medical practitioners under the Medical Acts, two members elected by all other registered medical practitioners, and one member elected by registered dentists. By s. 5 the members of the Council hold office for a term of five years, but are eligible for re-election or renomination.

2. HONG-KONG.

[*Contributed by* C. G. ALABASTER, ESQ., K.C., O.B.E.]

Ordinances passed—13.

The legislation of this year was of no outstanding interest and consisted almost entirely of amending ordinances.

Banking.—By No. 2 the Hong-Kong and Shanghai Banking Corporation (incorporated under No. 2 of 1866) is authorized to increase the limit of bills and notes in circulation payable to bearer on demand from 20,000,000 to 30,000,000 dollars.

Stowaways.—A new Ordinance (No. 3) was substituted for No. 5 of 1903. Under its provisions, being on board any ship in the waters of the Colony with intent to obtain a passage therefrom without the consent of the owner and arriving in the said waters in a ship without having obtained a like consent are made offences punishable with a fine of $1,000 and imprisonment for nine months.

Prevention of Smuggling.—By No. 10, altering the construction of a ship or its fittings with a view to the unlawful possession, storage or conveyance of arms, ammunition, opium or dangerous drugs is made a specific offence punishable with a $1,000 fine and a year's imprisonment. Where the alteration has been made without lawful authority or excuse, the unlawful intent is to be presumed until the contrary is proved.

Wireless.—The Telegraphic Messages Ordinance (No. 3 of 1894), which gave newspapers a thirty-six hour copyright in their published telegrams, is, by No. 12, extended to include messages transmitted by telephone, wireless telegraphy or wireless telephony.

3. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

Enactments passed—26.

The legislation of these States for the year 1924 has been of an amending, re-enacting, or consolidating nature ; a large part of it proceeding on lines parallel to the contemporaneous legislation of the neighbouring Colony of the Straits Settlements, in pursuance of the policy of assimilation and approximation to each other of the two Governments that has been so marked a feature of recent years, and is ever getting more accentuated. Only one enactment deserves to be singled out for notice.

Hindu Marriage Registration.—No. 9, for the first time in the history of the States, provides for the registration of Hindu marriages (legislation relative to the solemnization and registration of marriages of adherents of the Christian and Mohammedan religions being already in force for over twenty years). The enactment, however, only makes registration of Hindu marriages *optional*, by providing that (s. 5) any two persons professing Hinduism, and claiming to be husband and wife according to the institutions of that religion, may, within three months of their marriage, apply to have it registered by the Registrar, after subscribing the necessary declaration and producing witnesses, and

their respective parents or natural guardians, who are to signify their consent. S. 11 provides that neither this registration, nor the omission to register a marriage, nor any error or omission in the particulars recorded shall affect the validity of such marriage; and (s. 12) that the certificate of the Registrar shall be admissible as evidence, in judicial proceedings, of the marriage but not of its validity, and that the Court shall presume, until proof to the contrary, that a marriage registered under the enactment was valid.

Penalties are prescribed (s. 13) against any person (1) inducing a woman to declare falsely before the Registrar that she is married to him or to some other person, or (2) procuring the registration as a marriage of his union with a woman whom he is prohibited from marrying by law or usage.

4. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

Ordinances passed—22.

For the reasons already stated at the commencement of the Review of the Legislation of the Federated Malay States, there is little in the Legislation of the Colony of the Straits Settlements that calls for particular mention in the year 1924.

Co-operative Societies.—Ordinance No. 21 is based on the Federated Malay States Enactment No. 7 of 1922,[1] which in turn was based upon the Co-operative Societies Act, 1912, of India,[2] and was found to have worked satisfactorily. It deals with the constitution, registration and management of co-operative societies, with the shares and interests of the members, with special liens in favour of the societies, with the audit, inspection, and inquiry into their working, and their dissolution.

Dentists' Registration.—Following substantially the Dentists Acts, 1878–1923, of the United Kingdom, Ordinance No. 13 provides for the registration of dentists, and the prohibition of the practice of dentistry by other than registered practitioners, thus protecting the public from imposition by unqualified and incapable persons who previously abounded in the Colony.

5. MAURITIUS.

[*Contributed by* H. W. PRICHARD, ESQ., *Procureur-Général.*]

During the year 1924 forty Ordinances were passed by the Council of Government and assented to by the Governor, of which the following are the most important or otherwise require special notice:

Passports.—No. 1 prohibits any person without a passport or some other document satisfactorily establishing his nationality and identity from entering the colony without the permission of the Governor.

Wireless Telephony.—No. 4 regulates the use of wireless telephony. The Ordinance insists on the grant of a licence as a condition precedent to the use, etc., of a wireless telephone and provides penalties which may

[1] See *Journal of Comparative Legislation*, Third Series, vol. vi, pt. iii, p. 150.
[2] *Ibid.*, New Series, vol. xiv, pt. i, p. 70.

include the confiscation of the apparatus improperly used. The actual machinery of the law is dealt with by regulations which should be read as an integral part of the Ordinance.

Customs Preferential Tariff.—No. 20 provides for a preferential tariff in respect of certain specified goods which are shown to the satisfaction of the Collector of Customs to have been produced or manufactured in the United Kingdom and consigned therefrom. The Governor is empowered to extend, by Proclamation, the Preferential Tariff to goods imported from such British Possessions as may grant reciprocity.

Liquor.—The main object of No. 27 is to punish the purchaser as well as the vendor where breaches of the Liquor Law are committed.

Licences.—No. 28 carries into effect the recommendations of a Committee appointed to advise as to the shortcomings of the law relative to the sale of liquor. The object of the Ordinance is to make liquor dearer and harder to get.

Opium.—No. 30 consolidates the previous Ordinances, as the numerous small amendments made references to the original Ordinance somewhat difficult. The Ordinance gives further powers to the Governor in Executive Council to regulate the sale, possession and distribution of opium, other than raw or prepared opium the importation, exportation, manufacture, sale and possession of which are absolutely prohibited.

6. STATE OF NORTH BORNEO.

[*Contributed by* C. F. C. Macaskie, Esq., *Legal Adviser.*]

Only one Ordinance was passed in 1924.

Paupers.—The Paupers Ordinance was designed to establish shelters where paupers, temporarily or permanently incapable of earning a living, might be kept and cared for. The State has no unemployment problem. No able-bodied man has any difficulty in finding work, and no indigenous native in age or infirmity fails to find friends to support him, but some alien labourers come to need charitable maintenance. The Ordinance provides for the constitution of Institutions and Boards of Control, and for raising funds by a small rate payable (*a*) by employers on the number of labourers employed on the last day of each quarter; (*b*) by landowners on agricultural land; (*c*) by householders on house property.

Three rules of interest were passed under existing Ordinances.

Customs.—A Rule under the Customs Ordinance, 1916, empowers the Customs authority to assess the value of goods for purposes of duty when the invoice value is unduly lowered by the depreciation of the currency of the country of origin.

Probate.—A Rule under the Procedure Ordinance, 1915, empowers the District Treasurer, in any case where application for Probate or Letters of Administration has been made, to take evidence as to the value of the property of the deceased, and when he has reason to suspect under-valuation to move the Court before which the application was made to hold an inquiry into the true value.

Labour.—A Rule under the Labour Ordinance, 1916, restricts to $5, by periodical reductions, the maximum advance which any employer may make to any indigenous native labourer.

7. SEYCHELLES.

[*Contributed by* WYNDHAM L. GRECH, ESQ., *Legal Adviser and Crown Prosecutor.*]

During the year 1924 the legislation only consisted of five Ordinances of purely local character, principally Appropriation Ordinances.

IX. WEST AFRICA.

1. GAMBIA.

[It is hoped to publish this Summary in the next *Review.*]

2. GOLD COAST COLONY.

[*Contributed by* C. CARNEGIE BROWN, ESQ., *Acting Attorney-General.*]

During the year 1924 forty-one Ordinances were passed by the Legislative Council, of which the following are those of more general interest:

Employment of Children.—The Regulation of Employment of Children at Sea Ordinance (No. 1) supplements the Regulation of Employment Ordinance No. 11 of 1921, and brings into force in the Colony the provisions of the draft Convention of the International Labour Conference fixing the minimum age of the employment of children at sea at fourteen years.

Criminal Code.—No. 3 amends the law with respect to procuration and makes provision for the punishment of those offences in which the defilement of women is procured by threats, fraud or the administration of drugs.

Native Jurisdiction.—One of the main objects of the amendment of the law affected by No. 10 is to give effect to the recognized principle of Native Customary Law that the occupant of a Stool who has resigned or has been deposed may not continue to reside in the place where he formerly ruled. Disregard for this custom has caused difficulties in the past; and it is considered advisable to provide a remedy against subversion of recognized authority in this respect. The Ordinance therefore empowers the proper Native Authority, on the resignation or deposition of a head chief or chief, to remove him from the place where he formerly ruled to some other place within the division or subdivision. A penalty is provided for contravention of an order of removal and made triable by the native tribunal, which may also direct further compliance with the order.

The Ordinance also provides that when a chief is suspended or deposed by the Governor in Council under s. 29 of the principal Ordinance, the Governor in Council may at the same time order the removal of such chief from the place where he formerly ruled to some other place within the division. Provision is also made for the case of a chief who has been suspended or deposed under s. 29 of the principal Ordinance or otherwise, or who has resigned, and who is still living in the place where he formerly ruled or within the division over which he formerly ruled.

In such a case the Governor in Council may at any time order an inquiry to be held under the Commissions of Inquiry Ordinance (c. 168); and, if the Governor in Council is satisfied that the continued residence of such chief in the place where he formerly ruled or within the division is detrimental to the peace, order or good government of such division, the Governor in Council may order his removal to some other place within the division or to some place outside the division but within the Colony. And in the latter case the revenues and other properties of the Stool wherefrom such chief shall have resigned or been suspended or deposed shall, unless the Governor in Council shall otherwise order, be chargeable with the cost of the support and maintenance of such chief during the period of such removal.

Electricity.—The Electricity Supply (Control) Ordinance (No. 18) empowers the Governor in Council to make regulations for the control of the supply of electricity for lighting and power purposes by the Colonial Government, municipal administrations, or by private enterprise, with the object of securing the adoption of suitable measures to ensure the safety of the public and the protection of telegraphs, telephones and of wireless and other electrical signalling apparatus. This Ordinance differs from the Electricity Supply Ordinance (No 27 of 1920) inasmuch as the latter Ordinance applies only to private undertakings, whereas the Ordinance now under review applies to Government and municipal undertakings as well as to private undertakings.

Petroleum.—No. 22 repeals the existing Petroleum Ordinance of the Colony (c. 144), which is now considered to be of inadequate scope, and it substitutes therefor an enactment on the same lines as the Petroleum Ordinance of Nigeria (c. 134 of the Nigerian Statute Book).

Municipal Corporations.—No. 29 was prepared on the recommendation of a committee appointed by the Governor to inquire into and report upon the constitution and working of the existing Town Councils in the Colony established under the Town Councils Ordinance (c. 66), and to report how far the Councils had fulfilled the purposes for which they were created.

As the policy of the Government is based on the progress of the native races and as the recommendations of the committee include the grant to the Africans of a gradually increasing measure of responsibility for the care of their own towns and affairs, the Government accepted the recommendations, and the result is this Ordinance, which was drafted by the chairman of that committee, after careful study of the corresponding Ordinances of various colonies in the British Empire.

The Ordinance has not yet been applied to any town in the Colony, but when it is so applied the provisions of the Town Councils Ordinance will cease to be in force in such town.

The general scheme of the Ordinance is to create a larger and stronger municipal body to administer the affairs of the municipalities, and it creates in respect of any town to which it is applied a Municipal Corporation the powers of which will be extensive and the constitution of which will be founded on a popular basis.

The principal features of the Ordinance are:

(1) The qualification of Electors.

(2) The constitution of Municipal Corporations consisting of a Mayor, Deputy Mayor and Councillors.

(3) The Councillors appointed by the Government are not to exceed one-third of the number of elected members.

(4) The Councillors appointed by the Chambers of Commerce and the Gold Coast Chamber of Mines are not to exceed one-sixth of the number of elected members.

(5) The qualification of Councillors.

(6) The powers and duties of the Council, including the carrying out to the exclusion of all other authorities of the following Ordinances, viz.: certain sections of the Criminal Code (c. 16); the Destruction of Mosquitoes Ordinance (c. 64); the Towns Ordinance (c. 65); the Spirit Licence Ordinance (c. 137); the Wine and Beer Licence Ordinance (c. 138); the Petroleum Ordinance, 1924 (No. 22 of 1924); the Cinematograph Ordinance (c. 161).

(7) The preparation of the Annual Estimates, and their approval by the Governor in Council.

(8) The preparation of Ward Electors List, Electors Roll and Ward Roll, and procedure at Elections.

(9) The power of the Corporation to impose a Town Rate not exceeding twenty per centum, and to impose a graduated scale of Town Rate, upon the assessed annual value of premises.

(10) The power of the Corporation to impose a duty on the transfer of real and leasehold property, and to issue certain licences, such as pawnbrokers, money-lenders and others.

(11) A Resolution (of which two months' notice must be given) must, before the Ordinance can be applied to a town, be passed in the Legislative Council, after which the Governor issues a Proclamation declaring: (*a*) the boundaries of the town and the wards, if any; (*b*) the number of Councillors to be elected and appointed; (*c*) the date of election; and (*d*) the vesting in the Corporation such Government property as the Governor may deem necessary for the purposes of the Ordinance.

(12) If any Council fail to carry out the provisions of the Ordinance, the Governor has power to appoint a Board to do so and to invest such Board with the full powers of the Council. The Governor has power also to dissolve a Council after a Resolution authorizing such dissolution has been taken in the Legislative Council.

Customs Tariff.—No. 32 repeals all the Ordinances relating to the imposition of Customs duties together with the regulations made thereunder and consolidates with only minor variations the substance of those Ordinances, save such portion as is unnecessary, provision having been made for the same in the Customs Ordinance (No. 8 of 1923). The Ordinance, which is one of the results of the Conference of West African Comptrollers of Customs, provides for all Customs duties (both import and export), and it is an effort to attain as large a measure of uniformity with the corresponding legislation of the other British West African possessions as local conditions permit.

Patents.—The Registration of United Kingdom Patents Ordinance (No. 36) repeals the existing Patents Ordinance (c. 154), and substitutes therefor a fresh enactment based on a model draft prepared in the office of the English Board of Trade for uniform use in British Colonies and Protectorates. The principal alteration of the law which the Ordinance is designed to effect is that for the issue by the Governor in Council of local letters patent in respect of patents granted in the United Kingdom there shall be substituted the grant by the Registrar of Patents of cer-

tificates of registration of United Kingdom patents, and that application for local registration must be made within three years from the date of the issue of the United Kingdom patent.

The operation of the Patents Ordinance, 1900, and of the Patents Ordinance (c. 154) is, by s. 13 of the Ordinance, saved in respect of interests under such Ordinances respectively.

Public Officers' Guarantee Fund.—No. 40 is one of purely departmental interest; it repeals the present Public Officers' Guarantee Fund Ordinance (c. 23), and replaces it by a new one more adapted to modern needs.

The main object of the Ordinance is to simplify the administration of the Public Officers' Guarantee Fund; and, in particular, it substitutes for the present annual or monthly contributions a single lump-sum contribution; and, owing to the large amount now standing to the credit of the fund, and to the very slight current demands made on the fund, it has been found possible to fix the aforesaid lump-sum contributions on quite a moderate basis.

In preparing this Ordinance reference was made to the corresponding Nigerian Ordinance, c. 29 of the Nigerian laws, one object in view being to secure as great a degree of uniformity as the difference in local conditions allows.

(i) ASHANTI.

During the year 1924 nine Ordinances were enacted with respect to Ashanti, most of which were enacted for the purposes of applying to Ashanti certain Ordinances of the Gold Coast Colony.

Native Jurisdiction.—The chief object of No. 4 is the consolidation and development of the system of Indirect Rule in Ashanti which experience has shown to be seriously threatened by the steady advance of European civilization, and also the strengthening of the authority and position of Head Chiefs of Ashanti.

In the Gold Coast Colony proper it has been found that the present Native Jurisdiction Ordinance, imperfect as it is, is responsible for the maintenance of the system of Indirect Rule. Although lawyers are not at present allowed to practise in Ashanti, the time is rapidly approaching when this permission will have to be given.

As at present administered the preservation of Native Rule in Ashanti would be seriously threatened without an Ordinance of this nature. During the past few years several efforts to destool chiefs in Ashanti have been attempted, and it was essential to the peace and successful administration of Ashanti that this Ordinance should be passed.

With regard to the way in which this Ordinance introduces new law, there is no material difference between the powers conferred on the chiefs and Government under the Ordinance and those contained in the provisions relating to native tribunals which appear in the existing Ashanti Administration Ordinance, 1902, provisions which this Ordinance repeals.

(ii) NORTHERN TERRITORIES.

During the year 1924 seven Ordinances were enacted with respect to the Northern Territories of the Gold Coast, applying to the Protectorate certain Ordinances of the Gold Coast Colony.

(iii) BRITISH SPHERE OF TOGOLAND.

On April 1, 1924, the Imperial Order in Council, dated October 11, 1923, and intituled, "The British Sphere of Togoland Order in Council, 1923," came into force in that part of Togoland mandated to Great Britain.

By this Order in Council the British Sphere of Togoland is divided into two Sections, named the Northern Section and the Southern Section respectively. The Northern Section is to be administered as if it formed part of the Protectorate of the Northern Territories of the Gold Coast, and the Southern Section is to be administered as if it formed part of the Gold Coast Colony proper.

The laws for the time being in force in the Protectorate of the Northern Territories of the Gold Coast apply to and are the law in force in the Northern Section, while the laws for the time being in force in the Colony apply to and are the law in force in the Southern Section. Power, however, is reserved to the Governor of the Gold Coast to amend or modify by Ordinance any provision contained in any such law in its application to either the Northern Section or the Southern Section, and further the Governor has full power to legislate by Ordinance for the order and good government of either or both Sections.

The jurisdiction of the Chief Commissioner's Court of the Protectorate extends throughout the Northern Section, while the jurisdiction of the Supreme Court of the Colony extends throughout the Southern Section, this Section being regarded as if it formed part of the Eastern Province of the Colony.

The Governor, in the exercise of the powers and authorities conferred on him, is to be guided by the existing Royal Northern Territories Orders in Council and any Orders amending the same, and by any Royal Instructions relating to the Protectorate hitherto issued or to be issued.

During the year 1924, three Ordinances were enacted with respect to the British Sphere of Togoland of which the first and second are of general interest.

Administration. — The British Sphere of Togoland Administration Ordinance (No. 1) was enacted by the Order of His Majesty the King in Council bearing date the 11th day of October, 1923, providing for the Government of the British Sphere of Togoland. This Ordinance empowers the Governor of the Gold Coast Colony to make by Ordinance all such provision as may from time to time be necessary for the administration of justice, the raising of revenue, and generally for the peace, order and good government of the Northern and Southern Sections respectively of the said British Sphere of Togoland, as also for the other matters specified by Articles V and VI of the said Royal Order in Council.

Fugitive Criminals' Surrender.—No. 2 applies to the Southern Section of the British Sphere of Togoland only the provisions of the Extradition Treaty between Great Britain and France for the surrender of fugitive criminals.

3. NIGERIA.

[It is hoped to publish this Summary in the next *Review*.]

4. SIERRA LEONE.

[*Contributed by* MICHAEL F. J. MCDONNELL, ESQ., *Attorney-General.*]

During the year forty-eight Ordinances were passed. A number of these were prompted by the desire to remove anomalies and inconsistencies from the Statute Book before the issue of the revised edition of the Laws which was published in 1925.

Liquor.—No. 1 carries into effect the provisions of the treaty of St. Germain-en-Laye respecting the liquor traffic so far as concerns both the Colony and Protectorate of Sierra Leone.

Boy Scouts and Girl Guides.—No. 6 serves to protect the rights of the organizations concerned.

Passports.—No. 9 requires persons entering the Colony or Protectorate to be armed with documents of identification.

Public Health.—No. 10 empowers the Coroner to permit a post-mortem when there is reason to suspect that a person has died of certain infectious diseases.

Wild Animals, Birds and Fish Preservation.—No. 13 protects big game in various particulars which have been found to be necessary.

Undesirable Persons (Prevention of Immigration).—No. 17 effects control of persons whose entry is undesirable by reason of pauperism, crime, disease and for immoral or seditious tendencies.

Education.—No. 19 consolidates with amendment all enactments regarding Education.

Patents.—No. 21 assimilates the law on the subject to that of the United Kingdom.

Petroleum.—No. 26 prescribes various new precautionary provisions regarding inflammable oils.

Native Produce (Standardization and Grading).—No. 30 aims at raising the standard in the preparation of native produce, such as palm-oil, palm-kernels, ginger and piassava, for foreign markets.

Newspapers.—No. 43 provides for the registration of newspapers and their proprietors and the compulsory placing of an imprint on all newspapers setting forth the printer's name.

Summary Conviction Offences.—No. 45 contains various provisions relating to search warrants, and enables persons charged before a Magistrate Court with embezzlement to be convicted of larceny.

Customs Tariff.—No. 48 amends and consolidates the law relating to Customs Duties.

X. EAST AFRICA.

1. KENYA.

[*Contributed by* P. M. MCELWAINE, ESQ., *Crown Counsel.*]

Legislative Council.—Ordinance No. 1 was passed to implement the "White Paper." It provides for the election of seventeen members to the Legislative Council: Europeans elected by eleven constituencies, five Indians to represent the Indian Community, one Arab to represent the Arab Community.

The Ordinance is remarkable as giving franchise and rendering eligible for election British protected persons who are not British subjects.

General Revision.—Ordinance No. 4 repeals many old Rules and Regulations dating from the early days of the Colony. It also introduces minor amendments to existing Ordinances.

German Missions.—Ordinance No. 5 gives effect to Article 428 of the Treaty of Peace signed at Versailles on June 28, 1919. All German Mission property which was not disposed of by the Custodian of Enemy Property prior to January 31, 1924, and which before it became vested in the Custodian of Enemy Property, or on the 10th day of January, 1920, belonged to or was held in trust for a Christian Mission which was before or during the war maintained by a German National shall be vested in such trustees upon such trusts as the Secretary of State shall determine.

Trespass.—Ordinance No. 10 repeals an earlier Ordinance. Any person who without reasonable excuse enters the cultivated or enclosed land of any person or creeps through or interferes with a wire fence shall be guilty of an offence and on conviction shall be liable to a fine of 50*s.* and in default of payment to imprisonment for one month.

The owner or occupier may require the trespasser (if he is seen) to give his name and address or if he is a native to produce his registration certificate. If this is not done the owner or occupier may arrest the trespasser without warrant and shall thereupon take the trespasser with all practicable speed before a Magistrate or hand him over to the Police.

Oil Production.—Ordinance No. 11 regulates the prospecting for and working of oil-wells. Licences and leases are subject to the condition that in the event of war the Crown shall have the power to take over the control of the works and plant and to take control of stores of oil. The consent of the owner of private land is to be obtained by the prospector. A Native Reserve is "private land" and the administrative authority of the Reserve is deemed to be the owner.

Criminal Procedure.—Ordinance No. 12 repeals the Criminal Procedure (Amendment) Ordinance, 1921, which allowed an appeal to be brought from an acquittal. The new Ordinance substitutes the procedure of appeal by way of case stated and closely follows the Imperial Statute, 20–21 Vict., c. 43.

Native Authority.—Ordinance No. 14 empowers the Governor in Council to establish Local Native Councils, to be composed of the District Commissioners and Assistant District Commissioners, together with such head-man and other natives as the Governor may appoint.

The natives of the area over which the Council is appointed have a right to nominate suitable persons to represent their interests, and a list of persons so nominated shall be submitted to the Governor, together with the recommendation of the District Commissioner.

A Council normally lasts for three years, is presided over by the District Commissioner and meets at intervals of not more than three months.

A Council may pass resolutions for the welfare of the native inhabitants of the area in respect of matters affecting purely local native administration.

A Council may, before December 1 each year, pass a resolution for the imposition of a rate to be collected from the native inhabitants of

the area during the ensuing year. Such resolution must receive the approval of the Governor in Council before it acquires the force of law.

A Local Native Council may establish a Local Native Fund consisting of local native rates, and other moneys received for the benefit of the natives of the area. Moneys paid into this Fund are received by the District Commissioner and the accounts are subject to audit by the Colonial Auditor.

The Governor in Council may make rules for the better carrying into effect of the provisions of this Ordinance.

Roads Protection.—By Ordinance No. 16 the Governor may with the concurrence of the District Road Board reserve any road for particular kinds of traffic. The Director of Public Works may order the suspension of any or all traffic on any public road for a period not exceeding one month.

Education.—Ordinance No. 17 provides for School Committees for the different school areas of the Colony. The education of all races to be supervised by the Director of Education.

Teachers in Government and Private Schools must hold certificate of competency.

Fees in Government Schools may be prescribed by regulation.

Where in any school area in which ample school accommodation exists there is a demand for compulsory education the Governor in Council may proclaim that education shall be compulsory in that area for children between the ages of six and fourteen years residing not more than three miles from a school. A parent may, however, provide efficient instruction for his child to the satisfaction of the Inspector of Schools, in which case attendance at school shall not be compulsory.

Divorce.—Ordinance No. 20 defines marriage as the union of one man and one woman for life to the exclusion of all others.

Marriage can only be dissolved when the petitioner is at the time of the petition domiciled in the Colony or Protectorate. Other relief can only be granted if one of the parties to the suit has, at the time when the petition is presented, his or her usual residence in the Colony or Protectorate, or, if the marriage was solemnized in the Colony or Protectorate.

A wife may apply by petition to the Court for dissolution of her marriage on the ground that since the solemnization thereof, and since the passing of the Ordinance, her husband has been guilty of adultery or of rape, or of sodomy or of bestiality.

Failure to comply with a decree for restitution of conjugal rights constitutes desertion without reasonable cause.

The Indian Divorce Act, 1869, as applied to the Colony and Protectorate, is repealed.

Liquor.—Ordinance No. 22 provides for the licensing of Railway Restaurant Cars.

Registration of Business Names.—By Ordinance No. 24 it is provided that when the registration to be effected is that of a firm the age of each partner shall be given, and when the registration to be effected is that of an individual the age of such individual shall be given provided that when a partner or individual is of or over the age of twenty-one years it shall be sufficient for him to state his age as " full age."

Imperial Loan.—Ordinance No. 29 authorizes the Governor to borrow from His Majesty's Treasury £3,500,000 on security of the General Revenue

and assets of the Colony. The loan bears no interest until March 31, 1929. Thereafter the loan is to be repaid in thirty-seven annual payments at the rate of 6 per cent. of the amount.

The payments are to be made in the first place from the revenue of the Uganda Railway. Interest at 5 per cent. on any annuity in arrear.

2. NYASALAND PROTECTORATE.

[*Contributed by* P. B. PETRIDES, ESQ., *Attorney-General.*]

During the year 1924 twelve Ordinances were passed. The following are the more important:

Plants and Pests.—Ordinance No. 1 prohibits the introduction into the Protectorate of any plant or seed except by post or at specified places. Imported plants and seeds are to be at once handed to the Comptroller of Customs for disinfection, and if found subject to disease may be destroyed. Certain plants and their seeds, such as cotton, coffee, tea, rice, may not be imported without a special permit authorizing the introduction of the special consignment. Other specified plants and seeds may only be imported from places on a certificate that certain specified diseases do not exist in the country from which they were exported. The introduction of any plant or seed from any specific country or place may be prohibited or restricted.

Police.—Ordinance No. 5 repeals the Police Ordinance of 1921 and provides for all matters relating to the constitution and government of the Police Force, including the enlistment, discharge and service of the members of the force, police discipline, provision as to special police officers, legal penalties respecting the force and the disposal of effects of deceased members of the force and deserters.

Wild Birds' Protection.—Ordinance No. 7 provides for the protection of wild birds by the establishment of bird sanctuaries and close seasons and other means. The taking of the eggs of birds in respect of which a close season has been created is prohibited during such close season, while the molestation of any wild birds in a bird sanctuary is absolutely prohibited. Notwithstanding anything contained in the Ordinance, the Governor may issue permits for the taking of wild birds and their eggs for scientific purposes.

Prisons.—Ordinance No. 9 repeals the previous Ordinance relating to prisons and makes provision for the organization of the Prison Staff and the management of prisons generally.

Dogs.—Ordinance No. 10, which regulates the keeping of dogs, applies to such extent and to such part of the Protectorate as the Governor may by Proclamation direct. In parts to which this Ordinance applies all dogs over six months of age must be licensed annually and when at large wear a collar bearing a badge showing the licence number, otherwise they may be seized by the police.

Dogs that are dangerous or not under proper control or a nuisance by reason of their barking or otherwise are liable to be destroyed on the order of a magistrate.

The owner of a dog is liable in damages for injury done to any person or any domestic animal or bird by that dog without proof of previous mischievous propensity in the dog or that the injury was attributable to neglect on the part of the owner.

District Administration.—Ordinance No. 11 amends and consolidates the existing law relating to District Administration (Native). The Ordinance applies to such part of the Protectorate and to such an extent as may be provided by Proclamation. The Ordinance, while not radically altering the system of administration of districts by District Residents, will bring natives into closer touch with the District Resident, who will benefit by hearing their views on native problems to a greater extent than at present. The Ordinance enables judicial powers, both criminal and civil, to be given to natives who show themselves fit to exercise such powers.

Part II provides that where the Ordinance has been applied to any part of the Protectorate that part shall be divided into village areas, and a village head-man appointed to each village area. The duties of these village head-men are set forth in s. 4. Village councillors may be appointed in each village area to advise and assist the village head-man.

A village head-man sitting with or without village councillors may hear civil or criminal cases where the parties or accused persons are natives settled in his village area with such jurisdiction as may be prescribed.

Part III provides that where the Ordinance has been applied to any part of the Protectorate such part may be divided into " sections " consisting of village areas. Provision is made for the appointment of a principal head-man to each section and his duties are duly defined by s. 8.

Section councils may be appointed to advise the District Resident on matters affecting the security, order and good government of the section. A principal head-man sitting with or without such members of a section council as may be prescribed may hear civil and criminal cases where the parties or accused persons are natives settled in his section with such jurisdiction as may be prescribed.

Part IV provides for the appointment of district councils consisting of all the principal head-men in the district and selected village head-men and councillors. The duty of district councils will be to advise the District Resident upon matters affecting the security, order and good government of the district as a whole.

Part V regulates the duties of natives generally in regard to District Administration and the supply of labour.

Part VI contains a power to make rules and provides for penalties for offences committed under the Ordinance.

3. TANGANYIKA TERRITORY.

[*Contributed by* E. J. Macquarrie, Esq., *Solicitor-General.*]

Ordinances passed—17.

Weights and Measures.—No. 1 prescribes what weights and measures should be used in trade, and a system of inspection of such weights and measures.[1]

War Graves.—No. 3 gives the Imperial War Graves Commission the necessary control of war graves and cemeteries in the Territory, of which there are a considerable number.

Trades Licensing and Profits Tax.—Nos. 7 and 8 remove professions from the scope of the taxing Ordinances passed in 1923.

[1] It has not, however, yet been brought into force (April 1926).

Customs Tariff.—No. 14 provides for the valuation for duty of goods imported at an inland customs station, it being the intention to deduct the cost of transport from the actual port of importation.

Copyright.—No. 15 supplies the necessary machinery to carry out the provisions of the Imperial (Copyright) Act, 1911, as applied to the Territory.

Immigration.—No. 16 regulates the entry into the Territory of persons who are not natives born or domiciled in the territory. The provisions are of the usual type.

Native Affairs.—By No. 17 power is given to administrative officers to restrict dealings in native foodstuffs on the occurrence or threat of famine.

4. UGANDA.

1923.

[*Contributed by* S. S. ABRAHAMS, ESQ., *Attorney-General.*]

Twenty-three Ordinances were passed, the first twelve of which were incorporated in the Revised Edition of the Laws, 1923. The most important Ordinances were the following:

Revised Edition of the Laws.—No. 2 authorizes the preparation of a new and revised edition of the laws of the Protectorate by the Chief Justice, Sir Charles James Griffin, K.C.,[1] and contains the usual provisions for revision and consolidation.

Trade.—No. 4 prescribes licences to be taken out by wholesale and retail traders and hawkers, directs proper books of account to be kept and otherwise regulates trade.

Promissory Oaths.—No. 5 directs oaths to be taken by certain Government Officers on assuming office and prescribes the forms of such oaths.

Companies.—No. 6 deals with the incorporation of companies in the Protectorate and their management in general.

Registration of Titles.—No. 12 makes a number of important amendments in respect to the law of registration of titles to land.

Destruction of Court Records.—No. 13 enables the High Court with the approval of the Governor in Council to make rules for the destruction of such records, books and papers in the custody of the Courts or the Administrator-General as the High Court thinks useless or unworthy of continued preservation.

Masters and Servants.—No. 15 makes a number of amendments to the principal Ordinance of 1913 (now c. 55, Revised Laws) and among others enables the employer and servant to enter orally or in writing into a contract of service for an aggregate of thirty working days to be completed within forty-two days from the commencement. This contract is called "the thirty days contract."

Passports.—No. 19 enables the Governor in Council to make rules requiring persons entering the Protectorate to be in possession of documents of identity establishing the nationality and identity of the holder.

Stamps.—No. 21 makes alterations in certain fees chargeable under the Stamp Ordinance of 1915 (now c. 96, Revised Laws).

[1] This edition contains the laws in force on April 30, 1923, and was brought into operation on April 7, 1924.

1924.

The Legislation for the year 1924 comprised ten Ordinances only, none of which is noteworthy.

5. ZANZIBAR PROTECTORATE.

[*Contributed by* A. MacL. Grieve, Esq.]

During the year 1924 twenty decrees were passed, of which the following are of more general interest:

Animals.—The Pound Decree (No. 14) repeals previous legislation on the subject and deals with the stray animal nuisance common to all oriental countries. By ss. 2 and 3, the owners, hirers or temporary custodians of domestic or other animals who allow them to stray on public premises or roads or private property are liable to a fine not exceeding Rs. 50 or to imprisonment not exceeding one month or to both. Ss. 4 and 5 enable any police officer or aggrieved property owner to take a stray animal to the public pound and to apply to a magistrate for a summons against the person responsible.

Contracts.—The Law Amendment Decree (No. 2) affects various enactments and amongst others the Contract Decree, a local adaptation of the Indian Contract Act. Till the passing of this amending measure persons under the jurisdiction of His Highness the Sultan were subject to the Islamic law of Contract and the Contract Decree only applied to those under His Britannic Majesty's jurisdiction; now, however, by s. 25 of the Law Amendment Decree the Contract Decree is made applicable to those under the Sultan's jurisdiction as well. In Zanzibar these two jurisdictions exist side by side, each with its separate legal and judicial system. Recent legislation assimilated the forms of their judicial structure as far as possible, and the present amendment is a step in the direction of unifying the law their respective Courts apply.

Crime.—The Law Amendment Decree (No. 2) also amends the Penal and Criminal Procedure Decrees by abolishing the punishments of transportation and penal servitude.

Property.—The Law Amendment Decree (No. 2) likewise affects the law of property. By s. 11, the Transfer of Property Decree, a local adaptation of the Indian Transfer of Property Act, is made applicable to those subject to the Sultan's jurisdiction; whereas previously it had only applied to persons subject to His Majesty the King's jurisdiction, the Sultan's subjects being bound by Islamic Law.

Patents.—The Patents, Designs and Trade Marks Decree (No. 19) repeals previous legislation on the subject. S. 5 provides that any grantee of a patent in the United Kingdom may apply within three years of the issue of such patent to have it registered in the Protectorate. S. 6 requires an application to be accompanied by two certified copies of the specifications of the United Kingdom patent and a certificate of the Comptroller-General of the United Kingdom Patent Office giving full particulars of the issue of the patent on such specifications. Under ss. 7, 8 and 9 the Zanzibar Registrar of Patents is empowered to issue a certificate of Registration which confers on the grantee privileges and rights as though the patent had been issued in the United Kingdom with an extension to the Protectorate. The privileges and rights so granted dating from the issue of the United Kingdom patent and con-

tinuing in force only so long as the United Kingdom patent remains in force. Ss. 12 and 13 provide that a certificate of registration of any design or trade mark may be granted in the Protectorate to any person who in the United Kingdom, India or any of the British possessions is the registered proprietor of such design or trade mark. Every application for such certificate of registration must be accompanied by two copies of the original certificate of registration, three exact representations of the design or trade mark and in the case of a trade mark a block containing a representation for insertion in the local gazette. S. 15 enacts that the Zanzibar certificate of registration shall confer on the holder thereof within the limits of the Protectorate all the rights which the holder of a certificate in the United Kingdom enjoys. The Protectorate certificate becomes null and void whenever the original certificate lapses.

Public Health.—The Manufacture and Sale of Aerated Waters and Ice Decree (No. 15) repeals previous legislation on the subject. By s. 3 no person may manufacture or sell either wholesale or retail aerated waters or ice without a licence. S. 7 empowers the British Resident to make rules to provide for the manufacture and sale of aerated waters and ice under sanitary conditions.

6. ANGLO-EGYPTIAN SUDAN.

[*Contributed by* RICHARD WEDD, ESQ., *Advocate-General.*]

Preservation of Wild Animals.—No. 1 amends the Preservation of Wild Animals Ordinance, 1922, as regards prohibition of shooting from steamers, except the shooting of crocodiles.

Public Order.—No. 3 amends the Public Order Ordinance, 1921, by enabling the Authorities to call on able-bodied persons to assist in meeting danger arising from fire, flood or other emergencies.

Coinage.—No. 4 repeals the Coinage Ordinances, 1920 and 1923, and amends the Coinage Ordinance, 1918. It gives power to the Financial Secretary to authorize the circulation of English, Egyptian or foreign coins, and also prohibits the melting, breaking up or use, otherwise than as currency, of gold coin or "Maria Theresa" dollars.

Excise and Consumption Duties.—No. 5 authorizes the levying and collection of excise and consumption duties on certain scheduled liquids and food-stuffs with power to the Governor-General to vary the schedule.

The Customs (Duty on Refined Sugar) Ordinance.—No. 6 increases the import duty on refined sugar to 10 per cent. *ad valorem.*

Cotton Piece Goods.—No. 7 makes provision for the marking and folding of cotton piece goods to prevent fraud on buyers. Folded woven cotton textiles, nets or gauzes are to be folded in uniform laps throughout of one yard or one metre, and each piece marked with the numbers of yards or metres contained in it and the width specified.

Sudan Government Pension.—No. 8 amends the Sudan Government Pension Ordinances, 1924 and 1919, by giving powers to extend the period during which sons of deceased pensioners may draw pension.

Disposal of Unoccupied Town and Village Lands.—No. 10 amends the Ordinance of 1922 with regard to the Governor's power to sell derelict and undeveloped lands and enabling him to exercise the rights conferred by the Khartoum Streets Improvement Ordinance (No. 9), which deals

with the elimination of certain roads or parts of roads in Khartoum City on modification of the existing planning of the town.

Recovery of Lost and Stolen Property.—No. 12 lays down rules applicable to the recovery of lost or stolen property and lost or stolen animals of a kind in respect of which Government sale papers are issued on sale in public markets.

Hashish and Opium.—No. 13 was passed for the prevention of the import, export, cultivation, manufacture, possession, sale and use of hashish and opium except for medical and scientific purposes.

Arms.—No. 14 repeals and largely re-enacts the Arms Ordinance, 1907, and makes general provisions with regard to the import, carriage, manufacture and possession of firearms for private use or for trade, the licensing of gunsmiths and the like.

The importation or possession of rifles of the calibre of ·303 and pistols or revolvers of the calibre of ·450 and ·455 is prohibited.

Taxation of Rainlands (Ushur).—No. 15 repeals and re-enacts the Ushur Ordinance, 1921, with certain amendments, and provides for taxation of crops grown on land watered by rainfall, the tax being a tithe of the crop, paid in cash or in kind.

Unlawful Associations.—No. 17 provides for the prohibition of associations dangerous to the public peace or which interfere with the maintenance of law and order. This Ordinance was chiefly directed against certain societies which at the time of the promulgation of the Ordinance were suspected of being engaged in seditious activities.

The more important or interesting regulations made under existing legislation during 1924 are as follows:

Under the Public Order Ordinance, 1921, for regulation of traffic, prevention of fire, etc., in Khartoum, Khartoum North and Omdurman. For regulation of the El Obeid Animal Market and for the prohibition of processions and demonstrations in most of the towns of any importance in the Sudan.

Standard measures of capacity have been prescribed under the same Ordinance for use in the Provinces of Darfur, Mongalla, Nubia Mountains and Upper Nile.

The Rent Restriction Ordinance, 1920, has been continued in force in Khartoum until June 30, 1925.

The Cotton Regulations, 1924, the Berber Province Cotton Regulations, 1924, made under the Cotton Ordinance, 1912, provide for restrictions on the export of all cotton, the ginning of native-grown cotton and the marking, weighing and classification of cotton in certain specified districts.

Town Building Regulations have been issued under the Public Health Ordinance for the towns of Wad Medani and Malakal.

XI. SOUTH ATLANTIC.

BRITISH GUIANA.

[*Contributed by the* Hon. W. J. Gilchrist.]

There were forty-five public Ordinances passed during the year, of which the principal enactments are:

Pensions.—The Pensions Ordinance, 1903, is based upon a model Pensions Ordinance; certain provisions were, however, omitted. This

amending Ordinance (No. 1) rectifies these omissions. Power is given the Governor in Council with the approval of the Secretary of State to retire officers found to be unfit for the discharge of the duties of their offices. They will be entitled to pension even if they have not served ten years, such pension to be calculated at the rate actually due at the date of retirement. Provision is made for the granting of a special allowance for tropical residence, and the age from which an officer shall be entitled to count his service for pension is reduced from 20 to 18 years.

Harbour Board.—By this Ordinance (No. 2) the personnel of the Board is reconstituted. The Governor is relieved of the chairmanship and the Colonial Secretary is substituted. The Harbour Master no longer has a seat on the Board. The President of the Chamber of Commerce, or another member of the Council nominated by the Chamber, is to have a seat on the Board. Provision is made for the collection of berthing and landing charges at the Fort Groynne, and for the appointment of a Secretary. By the Harbours and Pilotage Ordinance (No. 39) Tonnage, Light and other Dues are now collected by the Secretary of the Board.

Teachers' Pensions.—Ordinance No. 4 provides for the payment to teachers of pensions at an increased rate. The age is fixed at which a teacher must retire. Provision is made for pensions in case of long, though non-continuous service.

Deceased Persons Estates.—Ordinance No. 8 removes from the Deeds Registry the duty imposed on the Registrar of checking and supervising the acts and accounts of private executors. This duty is now confined to the case of administrators who are appointed by the Court only.

Mining Districts Omnibus Licence.—This Ordinance (No. 10) is to allow of the issue of one licence to shops in mining districts to carry on their various businesses. Previously, separate licences were required to be obtained. The effect of this Ordinance is to secure the revenue due to the Colony and simplify the procedure in the issue of such licences.

Magistrates' Courts.—Ordinance No. 14 amends the principal Ordinance in so far that in the event of the fees set out in the Schedule to the principal Ordinance being amended at any future date it will not be necessary to pass further legislation as to fees payable in case of appeal from a judge sitting as a magistrate in the Petty Debt Court. Power is given the Governor to appoint any number of magistrates to any Judicial District or one magistrate to more than one District for all or any special class of cases as he may think advisable. For the purpose of enabling any party dissatisfied with the decision of the magistrate of the Rupununi District or any travelling magistrate to appeal therefrom there is added to the period prescribed a further period of twenty-eight days.

Medical.—Ordinance No. 18 consolidates and brings up to date the Ordinances relating to the medical services of the Colony, including sick-nurses and dispensers, midwives and nurses. In it is embodied the Ordinance relating to dentistry.

Public Loan.—Ordinance No. 20 increases the Colony's borrowing powers from $10,000,000 to $15,000,000.

Gambling Prevention.—Ordinance No. 21 excludes from the provisions of the principal Ordinance lotteries and sweepstakes organized and controlled by recognized racing clubs or associations, also lotteries organized with the permission of the Inspector-General of Police for the

purpose of raising funds for the building or repair of any church or in aid of any institution of a public or philanthropic or charitable or religious character.

Mining Districts Sunday Trading.—In view of the special conditions existing in mining districts or parts thereof it is impossible for the workers there to do their businesses at the various shops except on Sundays, and as that is against the law, it has been considered advisable to pass legislation (No. 22) legalizing this particular form of Sunday trading.

Summary Conviction Offences.—By Ordinance No. 30, s. 142 of the principal Ordinance is amended to permit of a magistrate imposing imprisonment in serious cases. S. 160 of the principal Ordinance is repealed and re-enacted to enable efficient orders to be made for the control of street traffic. Provision is made to enable the police to have control over processions and assemblies, and a right of arrest is given for a breach of any of these orders.

Distressed Seamen Repatriation.—The object of Ordinance No. 31 is to enable the Colony to recover the expenses to which it is put for the repatriation of its seamen who are in distress within the meaning of s. 40 of the Imperial Merchant Shipping Act, 1906, due to their being shipwrecked, discharged or left in a foreign port. In order to secure the object of this Ordinance security must be given by the owner, master or consignee of a ship for every subject of British Guiana or the British West Indian Colonies shipped from this Colony to return such seamen either to this Colony or to the Colony to which they belong. Similar legislation is being enacted in other Colonies, hence the necessity of providing for the safe return of British West Indian subjects shipped here.

Shops Closing.—Ordinance No. 35 consolidates the laws regulating the closing of spirit and other shops.

Indian Hemp and Datura.—Ordinance No. 36 prohibits absolutely the importation, cultivation, manufacture, use, etc., of Indian Hemp and Datura. It has, however, been represented that certain medicinal preparations, patent or proprietary medicines contain the prohibited ingredients, and an amending Ordinance (No. 45) is to allow the Medical Board from time to time to authorize the importation into the Colony of any medicinal preparation, patent or proprietary medicine containing Indian Hemp.

Harbours and Pilotage.—Ordinance No. 39 consolidates and amends the laws relating to the harbours of the Colony and makes provision for compulsory pilotage in the Colony.

XII. WEST INDIES.

1. BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, O.B.E., K.C., *Speaker.*]

Acts passed—30.

Hotels.—The Hotel Loan Act (c. 1) provides authority to raise a loan of £150,000 by the issue of Thirty-year Debentures, local or in England, at a rate of interest not exceeding 5 per cent. These Debentures are free of income or other similar tax, present or future.

The Hotel Act (c. 2) authorizes the Governor in Council to lend £150,000 at 4 per cent. for the erection of a 200 guest-room fire-proof Hotel in New Providence.

The New Colonial Hotel Vesting of Land Act (c. 3) is complementary of the Hotel and Steamship Service Act, 1923 (c. 1),[1] and the Streets Diversion Act, 1923 (c. 15).

It completes the arrangements between the Government and the Bahamas Hotel Company, Limited, in connexion with the site of the Hotel and part of the adjoining public land.

Grand Bahama Development.—The Grand Bahama Harbour Act (c. 4) empowers the Governor in Council to authorize the providing of a harbour at Grand Bahama. No expense is to be incurred by the Colony, as the undertaking is being financed by a private company.

Imperial Judicial Reciprocity.—The Reciprocal Enforcement of Judgments Act (c. 5) facilitates the reciprocal enforcement of judgments, orders and awards in the Colony, and England and Ireland, and the United Kingdom, and other parts of His Majesty's Dominions, and territories under His Majesty's protection.

The Chief Justice is the Rule-making authority. The Governor may extend the provisions of this Act to any other part of the Empire where reciprocal provisions have been made by the Legislature thereof. See the Judgments Enforcement Act, 1923 (c. 8),[2] which this Act repeals.

Opium Convention, 1912.—The Opium Act (c. 6) repeals the Opium Act, 1913 (c. 21), and consolidates and amends the law relating to the importation, storage and disposal of opium and similar drugs.

Opium cannot be imported or exported except with official permission.

Administration of Justice.—The Administration of Justice Expenses Amendment Act (c. 7) enables the stipendiary and circuit magistrate to employ an interpreter or interpreters without reference to the Attorney-General.

Marriage.—C. 10 amends the Marriage Act, 1908 (c. 4), (*a*) by relieving a Registrar of his civil responsibility for the acts of his deputy, and (*b*) by enabling an infant (in certain cases) to obtain the leave of the Chief Justice to contract a marriage.

Friday Half-holiday.—The Friday Half-holiday Act (c. 16) changes the closing hour from 2 o'clock p.m. to 12 o'clock noon. It consolidates, amends, and repeals the Friday Half-holiday Acts.[3]

Criminal Code.—The Penal Code (c. 17) is the first attempt to establish a Code of crimes in the Colony. It consists of 524 sections. It repeals over 150 Acts and parts of Acts ranging from 3 Edward I, Stat. 1 (c. 9) to an Act of 1921.

Justices of the Peace.—The Magistrates (Amendment) Act (c. 18) brings up to date the law as to the jurisdiction of magistrates; and as to the appointment and powers of justices of the peace. The first Act which it repeals was passed in the reign of Edward III.

Criminal Procedure.—C. 19 consolidates the law relating to pleading, practice and procedure before the Supreme Court in its Criminal Jurisdiction; and is one of the trilogy which has been passed during the

[1] See *Journal of Comparative Legislation*, Third Series, vol. vii, pt. iii, p. 177.
[2] *Ibid.*, Third Series, vol. vii, pt. iii, p. 178.
[3] *Ibid.*, Third Series, vol. ii, pt. ii, p. 156, and vol. vii, pt. iii, p. 178.

present session with a view to consolidating the law, in anticipation of a new edition of the statute law of the Colony.

Light Dues.—The Light Dues Repealing Act (c. 25) repeals the imposition of Light Dues of 3*d.* a ton on all vessels (with certain exceptions) arriving at any port in the Colony.

Government Paper Currency.—The Currency Note Amendment Act (c. 26) increases the amount of the Government Paper Currency note issue from £40,000 to £60,000.

Spirits and Beer Manufacture.—C. 27 is an elaboration and extension of the Spirits and Beer Manufacture Act, 1920 (which is repealed).

The licence fee is changed from £500 for 5 years to £200 a year. Provision is made for a Government stamp, etc., to be placed on each bottle filled in bond and under Government supervision. Raw material may be imported free.

2. BARBADOS.

[It is hoped to publish this Summary in the next *Review*.]

3. JAMAICA.

[*Contributed by* F. C. WELLS DURRANT, ESQ., *Attorney-General*.]

1923.

During the year 1923 forty Laws were passed by the Legislative Council.

Municipal Corporation.—The Kingston and St. Andrew Corporation Law (No. 3) abolishes the corporate bodies created and known as the Mayor and Council of Kingston, the Kingston General Commissioners and the Parochial Board of the parish of St. Andrew and creates a corporate body to be known as the Kingston and St. Andrew Corporation, which governs all the parochial affairs of the parishes of Kingston and St. Andrew and which is divided into four urban wards, two suburban wards and two rural wards.

On the coming into operation of the Law all the powers, rights, duties, capacities, liabilities and obligations exercisable by or attaching to the several corporate bodies dissolved were transferred to a Commissioner appointed by the Governor under the Law until the election of the Council, when they were transferred and attached to the Corporation.

The Corporation shall be capable of acting by the Council, and the Council shall consist of the Mayor, Aldermen and Councillors. There shall be eight Councillors, elected by the Burgesses. In addition to the Councillors elected by the Burgesses there shall be four Councillors who shall be :

The member from time to time elected to the Legislative Council as the representative for the parish of Kingston.

The member from time to time elected to the Legislative Council as the representative for the parish of St. Andrew.

The person for the time being holding the office or discharging the duties of Superintending Medical Officer.

The person for the time being holding the office or discharging the duties of Director of Public Works.

There shall be four Aldermen elected by the Council. The Mayor shall be elected by the Council from among the Aldermen and Councillors.

His term of office shall be one year. The term of office of a Councillor and an Alderman shall be three years.

Bankruptcy.—Under Law No. 4 every conveyance, assignment, transfer sale or disposition, made by any trader unable to pay his debts, of his stock-in-trade, debts or things otherwise than in the ordinary way of business to any other person shall, if a Provisional Order or an Absolute Order take effect against the person making the same within six months after the date of making the same be deemed fraudulent and void as against the Trustee unless the same were made and executed with the assent of three-fourths in number and value of the creditors of such person ; or unless the same were made and executed after not less than twenty-one days' notice in the *Jamaica Gazette* and in a daily paper.

The Law further adds the following to s. 8 of Law 33 of 1879 as an Act of Bankruptcy : That the debtor has in the *Jamaica Gazette* or in a daily paper given notice of his intention to convey, assign, or transfer his stock-in-trade, debts or things in action relating to his business to any other person ; and that the creditor presenting the petition having a demand against the debtor of a liquidated sum amounting to not less than £20, has served on the debtor in Jamaica a Bankruptcy Notice in writing requiring him to pay the amount of such debt, and that the debtor has not within seven days after the service of such notice paid such amount or secured or compounded for the same to the satisfaction of the creditor.

Wharfage.—This Law (No. 9) substitutes new schedules of fees payable for wharfage in Kingston and the other parishes.

Telephone.—No. 12 gives power to grant a licence under Law 10 of 1893 for a period not exceeding forty years.

Maintenance Orders.—By the Maintenance Orders (Facilities for Enforcement) (No. 15) a maintenance order made by any Court in England or Ireland against any person in this island shall be registered on the transmitting thereof of a certified copy to the Governor of this island and after such registration be of the same force and effect and shall be acted upon accordingly.

Judgments.—Under the Reciprocal Enforcement of Judgments and Awards (No. 16), where a judgment has been obtained in a Superior Court in the United Kingdom the judgment creditor may apply to the Supreme Court of Judicature of Jamaica at any time within twelve months after the date of the judgment or such longer period as the Court may allow to have the judgment registered in the Court.

When a judgment has been obtained in the Supreme Court of Judicature of Jamaica against any person the Court shall, on the application of the judgment creditor and on proof that the judgment debtor is resident in England, issue to the judgment creditor a certified copy of the judgment.

Provision is also made in the Law that where the Governor is satisfied that there is legislation in any part of His Majesty's dominions outside of the United Kingdom for the enforcement within that part of His Majesty's dominions of judgments obtained in the Supreme Court of Judicature of Jamaica, he may make an order in Privy Council declaring that this Law shall extend to judgments obtained in a Superior Court in that part of His Majesty's dominions in like manner as it extends to the United Kingdom.

Entertainments.—By Law No. 22 the following entertainments have

been added to the Entertainments Duty Law 14 of 1919 and are liable for duty thereunder: (i) A theatrical performance; also a variety entertainment; also a conjurer's entertainment. (ii) A concert or an operatic performance. (iii) A circus.

Sugar Industry.—The Sugar Industry Aid Loans Law, 1921, Supplemental Law (No. 24) provides for the continuance of assistance to representatives of the Sugar Industry under the provisions of the Sugar Industry Aid Loans Law, 1921.

Improvements.—The Corporate Area of Kingston and St. Andrew Improvement Law (No. 36) provides for the making of improvements and the carrying out of works in the corporate area of Kingston and St. Andrew and for the imposition of a special assessment to pay for the cost thereof.

Water-supply and Sewerage.—Law No. 39 authorizes the Governor to raise a loan to increase the water-supply and to extend the sewerage system in the corporate area of Kingston and St. Andrew.

1924.

During the year 1924 forty-two Laws were passed by the Legislative Council.

Missionary and Educational Work.—This Law (No. 5) repeals No. 4 of 1917 entitled, "A Law to provide for the exercise of closer supervision than has been necessary in the past in the case of aliens who undertake missionary or educational work in this island."

Former Enemy Aliens.—The Former Enemy Aliens (Restriction of Admission) repealing Law (No. 7) repeals the following Laws: (i) Law 34 of 1919 entitled the Former Enemy Aliens (Restriction of Admission) Law, 1919. (ii) Law 25 of 1922 entitled the Former Enemy Aliens (Restriction of Admission) Law, 1919, Extension Law 1922.

Enemy Trade Mark.—Under the Enemy Trade Marks (Assignment) Law (No. 14) it is no longer desirable that an assignment shall be subject to any stipulation by reason of the former enemy character of the assignee.

Voters.—The Registration of Voters and the Elections Law (No. 18) repeals s. 6 of Law 20 of 1906 and by so doing gives to the illiterate voter, who is on the Voters Roll, the right to vote at elections.

Sugar Industry.—The Sugar Industry Aid Loans Law, 1921, Supplemental Law (No. 20) authorizes the raising of a loan to provide assistance to representatives of the Sugar Industry for a further period of one year.

Entertainments.—Under Law No. 21 the following have been added to the meaning of the expression "Entertainment" under Law 14 of 1919: (i) any shooting competition; (ii) any French pool or *pari mutuel*.

Pensions.—The Pensions (Secondary School Teachers) Law (No. 29) makes provision for the granting of pensions and gratuities to teachers of certain Secondary Schools.

Passengers.—The Steerage Passengers Law (No. 30) prevents the overcrowding on ships bringing steerage passengers to the island and also makes provision for the issue to such passengers of pure water and, in certain cases, of good food and also for the carrying of life-saving appliances by such ships.

Secondary Schools.—The Grants-in-Aid Secondary Schools Law (No. 31) gives effect to a Report of a Select Committee of the Legislative Council and adopted by the Legislative Council on May 25, 1920, to a scheme for grants-in-aid to Secondary Schools.

Drugs.—Law No. 40 regulates the importation, exportation, manufacture, sale and use of opium and other dangerous drugs.

Emigrants.—Under the Emigrants' Protection Law (No. 41) the Governor shall from time to time proclaim any foreign country or place to be a country or place to which the provisions of this Law shall apply, and no person shall leave for such proclaimed place without first obtaining a permit and on lodging such amount as the Governor shall determine. The Governor may, however, exempt any person or any class or description of persons from the obligation to obtain a permit.

Gunpowder and Firearms.—Law No. 42 deals with the sale of, licences to deal in, storage and packing of, packing of for conveyance of gunpowder, firearms and dangerous explosives.

4. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by* N. Julian Paterson, Esq., K.C.]

During the year 1924 twenty-two Ordinances were passed, the more important of which are as follows:

Bills of Sale.—Ordinance No. 3 makes provision for the registration of bills of sale on the lines of the Imperial legislation on the subject. Hitherto the only legislation on the subject was an Act of 1874 containing only two sections and providing merely for the registration of bills of sale in the office of the Registrar of Deeds.

Cotton Plant Protection.—The insect pest known as the Pink Bollworm having been found to exist in Carriacou, one of the islands attached to the Government of Grenada, the Cotton Plant Protection Ordinance (No. 7) was passed to provide for the eradication or control of the pest. The Ordinance provides for the establishment of a close season during which no cotton can be planted. Before the first day of the close season all cotton plants must be cut back, and the parts cut off together with all fallen cotton bolls, scattered seed-cotton, wild cotton and okra plants must be burnt.

Registration of United Kingdom Patents.—Ordinance No. 14 provides for the registration in the Colony of patents issued in the United Kingdom. Subject to conditions established by the law of the Colony, such registration has the effect of a patent issued in the United Kingdom with an extension to the Colony.

Whale Fishery.—The business of killing whales has for many years been carried on by persons resident in the Colony on a small scale. No regulation by law of the local industry was considered necessary. A foreign company having applied for permission to establish a whaling station in the Colony, it became necessary to pass an Ordinance for the regulation of Whale Fisheries. Accordingly Ordinance No. 15 was passed. The Ordinance forbids the killing of whales without a licence and provides for the granting of licences subject to conditions to be fixed by regulations. Regulations on the lines of those in force in the Falkland Islands have been made, and an Order in Council, made under another Ordinance, prescribes an export duty in respect of whale oil and whale guano.

Seditious Publications.—Ordinance No. 20 repeals the Seditious Publi-

cations Ordinance of 1920. The ordinary law on the subject contained in the Criminal Code continues to be in force.

(ii) ST. LUCIA.

[*Contributed by the* HON. J. E. M. SALMON.]

Ordinances passed—19.

Education.—In order to economize the Scholarship Suspension Ordinance (No. 17) suspended the island scholarship during 1925. The scholarship has been since renewed as from 1926.

Harbour and Shipping.—The Engagement of West Indians by Foreign Ships Ordinance (No. 1) replaced No. 8 of 1923.

The Harbour of Castries Amendment Ordinance (No. 12) replaces the scales of port charges, cargo dues and coal dues payable by ships entering the harbour.

Labour.—The Daily Labourer's Wages Payment Ordinance (No. 13) is a truck act requiring the payment of wages in coin or notes. No set-off is to be allowed for supplies of goods by the employer other than medicine, agricultural implements or local ground provisions.

Medical.—The Infectious and Contagious Diseases (Amendment) Ordinance (No. 11) defines "Infectious Disease" to mean Diphtheria, Membranous Croup, Typhoid or Enteric Fever, Cholera, Plague, Yellow Fever, Smallpox (including Alastrim and other anomalous forms of Varioloid disease), and Cerebro-spinal Fever.

The Medical Registration Amendment Ordinance (No. 18) provides for the qualification and registration of druggists' assistants, whose certificate and its registration are to be subject to the same conditions as in the case of a druggist, excepting that the fee for registration is to be only 10*s*. It also empowers the Governor on the advice of the Medical Board to cause the name of a druggist's assistant to be removed from the Register.

Negotiable Instruments.—The Commercial Code (Bills of Exchange Time of Noting) Amendment Ordinance (No. 9) allows a bill to be noted or protested on the day of its dishonour and not later than on the next succeeding business day. This brings the local law in line with imperial legislation.

Patents.—The Registration of United Kingdom Patents (No. 19) provides for the registration in the Colony of patents registered in the United Kingdom upon production of the documents mentioned in s. 3, on which the local Registrar of Patents is empowered to issue a certificate of registration which confers on the applicant the privileges and rights of a patentee locally as though the patent had been issued in the United Kingdom with an extension to the Colony. The object of the Ordinance is to cheapen the cost of registration of such patents in the Colony. Power to make rules as to procedure and fees is given by s. 10. Rules have since been made thereunder.

Revenue and Taxation.—The Income-tax Ordinance (No. 8) is principally based on a model Ordinance for the Colonies and imposes a graduated tax on incomes (after the deductions allowed by the Ordinance, which includes £100 for every individual) commencing with 4*d*. and rising to 5*s*. 6*d*. in the £, except in the case of companies which pay at the flat rate of 2*s*. 6*d*. in the £.

(iii) St. Vincent.

[*Contributed by the* Hon. Neville Turton, M.A., *Attorney-General.*]

Ordinances passed—23.

Articled Clerks.—No. 4 deals with articled clerks seeking to become solicitors. The Ordinance provides for a preliminary examination in general knowledge, but certain examinations are accepted in lieu. The clerkship is for five years, and may be served with either a practising barrister or solicitor, and there is a final examination before admission. The Ordinance also provides for the practising of persons admitted as solicitors in Great Britain or Ireland, and was amended by Ordinance No. 11 to exclude all Irish solicitors except those admitted in Northern Ireland.

Income-tax.—No. 5 deals with Income-tax; it is the well-known "Model Ordinance" in force in other Colonies and repeals all other law on the subject. The rates are laid down in s. 21. Besides the usual deductions, including those for wife and children, s. 15 allows £100 deduction to any person who is resident in the Colony or a British subject. The Ordinance is administered by a Board of three Commissioners, of which the Attorney-General is Chairman.

Patents.—Ordinance No. 15 deals with the local registration of patents registered in the United Kingdom. By s. 2 any grantee of such a patent or any person deriving his right from such grantee by assignment, transmission or other operation of law may apply within three years from the date of the issue of the patent to have such patent registered in the Colony. Ss. 3 and 4 provide for the specifications to accompany the application and for the usual advertisement and opposition; s. 19 gives power to the Governor in Council to make rules; one set of rules has been made and will be found in the Government *Gazette* of March 31, 1925.

Licensing.—The last Ordinance, No. 23, consolidates the licensing law, there being no change in principle. The rest of the Ordinances merely deal with matters of local routine.

5. TRINIDAD AND TOBAGO.

[*Contributed by* Walter C. Huggard, Esq., K.C., LL.D., *Attorney-General.*]

Twenty-eight Ordinances were passed during the year 1924, of which the following are the more important and are likely to be of interest outside the Colony:—

Income-tax.—No. 2 fixes the rate of tax on incomes over £250 per annum of persons other than companies and allows residents in the Colony and non-resident British subjects deductions in respect of wife, children and life insurance.

Agricultural Bank.—No. 12 provides for the establishment of a Bank for the purpose of fostering and encouraging agriculture in the Colony. The Bank is to be administered by a Board of five members appointed by the Governor. The funds of the Bank will be the proceeds of loans raised by the Government, but pending the raising of a loan, the Treasurer may be authorized to make advances to the Bank. The Board may make loans on first mortgage on agricultural lands, not ex-

ceeding £2,000 in any one case. The loans are repayable by equal annual or semi-annual instalments sufficient to cover the interest and to provide for repayment within a definite period, probably thirty years. Temporary advances not exceeding two-thirds of the value of the crop, and not in any case exceeding £1,000, may be made for labour and other crop expenses and for maintenance and improvement. Such advances will bear interest and be repayable on June 30 next following the date of the advance. Any owner who applies a loan or advance to purposes other than those authorized by the Ordinance or disposes of crops or produce in respect of which an advance has been made except in manner directed by the Board, is liable to a fine of £100 or imprisonment for six months.

The Governor in Executive Council is empowered to make regulations for all matters necessary for regulating the administration of the Bank and carrying out the provisions of the Ordinance.

Mortgages Extension.—No. 14 provides that the moratorium declared by Ordinance 1–1922 shall continue until March 31, 1925, and then expire.

The Cinematograph (Amendment) Ordinance.—No. 18 provides that posters advertising cinematograph films shall be subject to the same censorship as films.

The Patents Ordinance.—No. 19 provides for the local protection of patents granted in the United Kingdom on registration in the Colony.

The Wireless Telegraphy (Amendment) Ordinance.—No. 23 extends the definition of wireless telegraphy to include wireless telephony.

XIII. MEDITERRANEAN COLONIES.

1. GIBRALTAR.

[*Contributed by* Captain the Hon. M. H. Anderson, C.B.E., K.C., R.N. (ret.), *H.M. Attorney-General.*]

Thirteen Ordinances were enacted during the year, some of which present interesting and novel features, especially No. 8, the Alien Traders Ordinance, and No. 12, the Public Services Control Ordinance.

Alien Traders.—No. 8 provides that no person other than a native shall open or conduct any trade or business, which expressions defined to mean the operation of buying or selling, without a licence, and further, that no alien shall occupy more than one shop, etc., for the same class of business. The object of the Ordinance—which has given some difficulty in administration—was to prevent overcrowding by aliens who by offering high rents obtained a large number of business premises to the detriment of the native, and to prevent the carrying on of comparatively non-essential trades, this latter necessity arising out of the very limited area available in Gibraltar either for living accommodation or for business premises. An initial fee of £25 is chargeable for the licence, with an annual renewal fee of £5.

Public Services Control.—No. 12 was enacted in somewhat novel circumstances. By Ordinance No. 7 the City Council was empowered to instal and operate a telephone system. There was in existence an antiquated system, the owner of which repelled all advances towards improvement or compensation or even purchase, although the system

was operated under a temporary concession. Soon after the enactment of Ordinance No. 7 the owner of the old system gave notice that he would cease to operate the system forthwith. Such a proceeding would have caused great confusion not only to the civil population but also to the operations of the naval and military authorities in this quasi-fortress. Ordinance No. 12 was accordingly enacted to empower the Government to deal with the situation. It provides that where any person who by virtue of a concession or licence carries on any public service—defined to mean any telegraph, telephone, gas, water or electricity service—shall wilfully decline to continue the same, the Government may take control and operate the service. All debts and charges become payable to the controller appointed by the Governor and the profits, if any, of the system are paid to the owner. All employees of the owner are enjoined to remain at work, their wages being paid by the controller, and any notice to the employee by the owner to determine his service is voidable by the controller. Heavy penalties are provided for any tampering with the system, and also against employees quitting their work.

Petrol.—Ordinance No. 1 gives power to regulate and control garages and the storage of petrol, the number of motor vehicles having largely increased.

Summer Time.—Ordinance No. 2 provides for the introduction of summer time whenever considered necessary.

Stamp Duties.—Ordinance No. 3 introduces stamp duties. The Ordinance is modelled on the English Act of 1891, but is not quite so extensive. No. 5 makes a slight alteration in No. 3, chiefly in relation to cheques of the Imperial Forces drawn by the local accountant officers.

Coroners.—Ordinance No. 6 amends the Coroner's Ordinance by giving the Coroner discretionary power to hold an inquest without a jury. The number of jurors requisite was at the same time reduced to seven, the number required in all civil and criminal (except murder) causes.

Clubs.—Ordinance No. 9 provides for the registration and licensing of clubs; it is modelled on Imperial legislation.

Workmen's Compensation.—Ordinance No. 10 is the Employers' Liability Ordinance. Over a long course of years it was considered that by virtue of an Order in Council of 1883 English law on this subject prevailed in Gibraltar; but doubts having arisen in a test case, the Supreme Court decided against this view. The Ordinance was accordingly enacted to provide the workman with the necessary protection.

Patents.—Ordinance No. 11 provides for the registration in Gibraltar of patents registered in the United Kingdom and repeals the previously existing Patent Ordinance of 1913.

2. CYPRUS.

[*Contributed by* J. C. Howard, Esq., *Attorney-General.*]

Laws passed—18.

Unlike its predecessor—1923—few laws of major importance found their way to the Statute Book in 1924. The following are the principal enactments.

British Nationality.—No. 11 empowers the Governor, by Order in Council, to prescribe fees in respect of registrations authorized to be made by the British Nationality and Status of Aliens Acts, 1914 to 1922.

Civil Procedure.—No. 5 was enacted to repeal the Civil Procedure Law, 1923, which gave village judges the power to issue writs of sale of immoveable property. This Law had been found unworkable, but the new Law read together with Law 10 of 1885 provides the village judge with all the requisite powers.

Education.—Nos. 3 and 4 deal with a minor point which had arisen under the Principal Laws dealing with Moslem and Greek-Christian Education respectively. They provide that corporations shall pay taxes in respect of education. Also in the case of taxes paid by bodies of persons corporate or unincorporate power is given to the Governor to decide the allocation or application of such funds to elementary education.

Explosives.—No. 14 was passed to amend Law 4 of 1882 in consequence of a decision of the Supreme Court on the interpretation of a clause in this Law as to the number of cartridges which can be stored without a special permit from the Governor. The amending law provides that in estimating the weight of cartridges stored only the gunpowder shall be taken into consideration.

Patents.—No. 12 was passed to bring the Law in Cyprus with regard to the granting of Patents in line with the recommendations of the Empire Patent Conference. Practically no departure in principle was made from the previous Law.

Pensions.—No. 16 was passed to bring the Law of Cyprus into line with other Colonies. It provides that when an officer leaves the service of the Cyprus Government for services in another Colony he shall be entitled in respect of such service in Cyprus to the additions due in respect of professional or judicial qualifications.

Provisional Powers.—No. 2 extends for a period of five instead of three years from the date of the determination of the war the powers granted to the Governor to make orders (1) regulating coinage and currency notes, (2) providing for a Public Custodian of Enemy Property.

Public Health.—No. 15 provides, what has long been required in Cyprus, a measure permitting the medical authorities to cope with the disease of Malaria. The Law is modelled on that in force in Palestine. The occupier of premises must take precautions to prevent the breeding of mosquitoes in accordance with regulations issued by the Chief Medical Officer. The Chief Medical Officer may take measures to drain a marsh land on payment of compensation. A right of entry between 8 a.m. and 5 p.m. to see that regulations are being observed is given to officials authorized in writing by the Chief Medical Officer. Penalties are provided for persons who contravene regulations of the Chief Medical Officer after notice of contravention has been served on them. The Chief Medical Officer is empowered to carry out measures necessary for the purpose of this Law if the occupier refuses or fails so to do.

Summer Resorts.—No. 18 was passed to assist in the development of Platres as a summer holiday resort. It permits the Platres Board to enter upon their duties of office at an earlier date than is permitted under the principal Law, No. 6 of 1908. It further amplifies their power of making regulations. It confers on them borrowing powers, and power to acquire land on payment of compensation.

Revenue.—Nos. 1 and 17 are the usual Appropriation Laws.

No. 10 permits the export of timber, bark, tar and pitch with the licence of the Governor.

No. 13 changes the import duties on petroleum and paraffin to four and a half piastres for every four gallons.

Warehouses.—No. 9 was passed to provide warehouses for the storage of wines and spirits. These warehouses will be under the control of the Customs authorities, and their establishment will enable merchants to store their spirits and obtain from the Customs authorities certificates of maturity in respect thereof when they desire to export for sale.

3. MALTA.

[*Contributed by* C. J. Colombos, Esq., LL.D.]

Acts passed—26.

Post Office.—Act No. 3 re-enacts, with amendments, the Ordinance of 1900, which it repeals, introducing among the more important innovations provisions for the "cash on delivery" system of postal articles, for the establishment of Post Office Savings Banks and for the prohibition of transmission by post of any circular or ticket relating to foreign lotteries.

Opium.—Act No. 6 supplements the Ordinance of 1913, enacted in conformity with The Hague International Opium Convention of January 23, 1912, and empowers the Governor in Council to regulate the sale of raw opium and to require all persons dealing with this drug to supply the prescribed information.

Enforcement of Judgments.—This Act (No. 7) was passed to make judgments obtained in the United Kingdom and the British Possessions enforceable in Malta, subject to reciprocity and in accordance with Imperial Legislation (Part II of the Administration of Justice Act, 1920, 10 & 11 Geo. V, c. 81).

Parliamentary Allowance.—With a view to securing the regular function of Parliamentary Committees, Act No. 11 subjects to certain fixed deductions the salaries of members of the Senate and Legislative Assembly who, without reasonable cause, either refuse to serve on Committees or else fail to attend the sittings thereof.

Elections.—Act No. 14 reorganizes the law with regard to elections and the electoral rolls for both Houses of Parliament. The first part deals with qualifications for voters, and the preparation of the lists, and the second part with the actual conduct of the elections which are by proportional representation.

Education.—This Act (No. 22), of considerable local importance, strengthens the law relating to primary education. It provides that children, once admitted into a public elementary school, will not be allowed to leave before completing the entire course and obtaining a certificate to that effect from the head master. Parents are made responsible for the regular school attendance of their children. The Act does not apply, however, to boys or girls who have not been placed by their parents in an elementary school and must therefore be regarded as being only a first step in the progressive development towards general compulsory education.

Privileges of Parliament.—S. 39 (1) of the "Malta Constitution Letters Patent," 1921, vested in the Maltese Legislature the exclusive right of defining by law its privileges, and Act No. 24 was accordingly passed. It declares that the Senate and Legislative Assembly shall enjoy privi-

leges assimilated to those of the House of Commons of the United Kingdom. No discrimination is made in this respect between the Upper and Lower House, the privileges being in either case identical.

Emergency Regulations.—Act No. 25 enacts permanent legislation for the preservation of public safety, but is not intended to operate except at a crisis. The Malta Act follows in the main the provisions of the Emergency Powers Act, 1920 (10 & 11 Geo. V, c. 55).

XIV. PALESTINE.

[*Contributed by* NORMAN BENTWICH, ESQ., M.C., *Attorney-General.*]

Ordinances passed—35.

Judicial Organization.—A number of Ordinances were enacted to implement the provisions of the Palestine Order in Council with regard to the judiciary. The Courts Ordinance established the existing Magistrate, District, and Land Courts, and in place of the Court of Appeal, which since the British Occupation had been the highest Court, provided for the constitution of a Supreme Court sitting in two forms, a Court of Appeal and a High Court. As a Court of Appeal the jurisdiction of the tribunal remained as before, namely to hear appeals from the District Courts and Land Courts. As a High Court it obtained an original jurisdiction in applications of the nature of *habeas corpus* proceedings, and orders in the nature of *mandamus* proceedings directed public offices. These matters had hitherto been dealt with administratively, and had not been within the scope of the judicial authority.

The Courts Ordinance provided also for the establishment of the Court of Criminal Assize, which tries offences in which a capital sentence may be passed. The Chief Justice or the senior British judge of the Supreme Court sits with the District Court in these grave cases. The Ordinance prescribes also the composition of a special tribunal to deal with the conflicts of jurisdiction between the Civil Court and the Religious Court. The tribunal is to consist of two British judges of the Supreme Court and the president of the highest Court in Palestine of any religious community which is alleged to have jurisdiction in the matter in issue.

The qualifications of judges of the Supreme Court and District Courts are laid down and every judge of the Superior Courts is to hold office during the pleasure of His Majesty.

The constitution of the Supreme Court has enabled effect to be given to the provisions of the Palestine Order in Council with regard to an appeal in civil cases to His Majesty in Council. The appeal lies (*a*) as of right from the final judgment of the Court where the matter in dispute on appeal is of a value of £E.500 at least, or where the appeal involves a claim respecting property or some civil right amounting to or above that value; and (*b*) at the discretion of the Court from any judgment if the question involved is deemed to be one which by reason of its great general or public importance should be submitted to His Majesty in Council. Rules governing appeals in the common form have been promulgated by an Order in Council dated October 9, 1924.

The jurisdiction of the civil magistrates who form Courts of First

Instance for minor civil and criminal cases has been revised by Ordinance No. 9. Broadly their power extends to offences for which the maximum penalty does not exceed imprisonment for a year and a fine of £E.100, and to civil actions in which the value of the subject-matter claimed does not exceed £E.100. An appeal lies to the District Court, where the penalty inflicted is a fine exceeding £E.10 or imprisonment exceeding fifteen days, and in civil cases where the amount or value of the subject-matter claimed is not less than £E.20 leave to appeal may be granted by the President of the Court in any case in which an appeal did not lie as of right.

Criminal Procedure.—The Trial upon Information Ordinance (No. 22) replaces the rules in the Ottoman Code of Criminal Procedure by a system based upon English practice. It provides for a preliminary inquiry into any charge triable by a superior Court before a Civil Magistrate. The Ottoman procedure of trials in absence for serious offences is abolished, but power is given to hold a magisterial inquiry in the absence of the accused in order to perpetuate testimony. An appeal lies to the Court of Appeal where the penalty exceeds a fine of £E.100 or imprisonment for six months, and the Attorney-General has a right of appeal from an acquittal on grounds of legal error or inadequate punishment.

Law of Evidence.—The Ottoman system of evidence is contained in the Civil Code, the Mejelle which is based on the Moslem Religious Law. Its somewhat mediæval provisions are amended by Ordinance No. 13, which lays down the general principle that all persons are competent to give evidence in all cases, and that no person shall be considered incompetent by reason of his being a party to an action or being the accused person in a criminal case or the relation of a party or of the accused person. Exception is made in favour of a husband and wife and a parent and child, who are declared not to be competent to give evidence against each other. The rule in the Mejelle that the evidence of one witness is insufficient proof is modified by a provision that no judgment shall be given on the evidence of a single witness unless it is uncontradicted in a civil case, or in a criminal case it is admitted by the accused person or corroborated by some other material evidence. The meticulous arrangements of the Mejelle with regard to testing the credibility of the witnesses are replaced by a provision to the effect that the value of oral evidence and the credibility of witnesses are questions for the Court to decide.

Another Ordinance (No. 28) provides rules for the proof before the Court of documents executed out of Palestine.

Arrest and Search.—The rules concerning the arrest of offenders and search of suspected persons and premises are amended and consolidated by Ordinance No. 4. A person arrested without a warrant must be brought before a magistrate within forty-eight hours of his arrest and can be remanded in custody only for a period not exceeding fifteen days.

Contempt of Court.—Ordinance No. 11 adds to the provisions in the Ottoman Penal Code which imposes penalties only for insult or outrage committed in the presence of the Court and for the failure of a witness to attend or answer questions. The Ordinance provides penalties in case of publication during a trial of anything of a nature to prejudice a fair trial or to bring the Court into contempt. It further vests the Superior Courts with powers to enforce by fine or imprisonment obedience to any order issued by it directing or prohibiting an act to be done.

Jurisdiction of Civil Courts.—An Ordinance (No. 27) provides for the trial by the Civil Courts of members of His Majesty's Forces in Palestine. Since the British Occupation the Civil Courts did not enjoy jurisdiction over such persons charged with a criminal offence ; but by the enactment which follows the general principles of English law the Civil Courts receive jurisdiction, subject to the reservation that the officer commanding may elect to bring the accused before a Court Martial. The Court is composed solely of a British judge or judges, and is to apply the principles of English law in respect to the nature and constitution of the offence and the admissibility of evidence and the punishment of the offence ; provided that no sentence more severe than that prescribed by the local law shall be imposed.

In order to avoid actions being raised before the Civil Courts touching on matters which would properly fall within the purview of the Commission on the Holy Sites, of which the establishment is contemplated by the Palestine Mandate but has not yet been brought into effect, an Order in Council was issued which provided that any cause or matter in connexion with the Holy Places or religious buildings or sites in Palestine or the rights or claims relating to different religious communities shall not be heard or determined by any Court. The High Commissioner is to decide if any question arises whether the cause or matter comes within the scope of the withdrawal from the jurisdiction of the Civil Courts.

Municipal Courts.—The Ordinance of 1921 providing for the establishment of Municipal Benches of honorary magistrates was amended (No. 32) by way of reducing the minimum number of the Bench to two members, with a provision that in case of a division of opinion the case should be retried by a Bench containing an odd number of members. The right of appeal to the District Court is accorded from any sentence of imprisonment passed by the Municipal Bench.

Extradition.—In order to give effect to the provisions in the Palestine Mandate for the application in Palestine of extradition treaties between His Majesty's Government and foreign Powers, an extradition Ordinance (No. 18) establishes a system similar to that of the English Extradition Act. Where a demand is made for extradition from Palestine of a foreign fugitive offender charged with an extradition offence, the Treaty shall apply to the extent that it applies to demands for extradition from the United Kingdom subject to the procedure laid down. The provisional agreements for extradition made between the Government of Palestine and the Governments of Syria and Egypt are validated as though they had been made applicable by a proclamation under the Ordinance. Power is given to the High Commissioner to require a judge in Palestine to take evidence for the purpose of a criminal matter pending in any Court or tribunal in a foreign State, with a reservation that the power shall not apply in case of any criminal matter of a political character.

Prevention of Crime.—The object of Ordinance No. 14 is to give extended powers to the Executive in dealing with outbreaks of crime in tribal areas. The District Governor may, with the sanction of the High Commissioner, impose a collective fine on the inhabitants of such an area where there is evidence that the inhabitants have connived at the commission of an offence or failed to render the assistance in their power to discover the offenders. The Sheikh of the tribe is responsible

for reporting any crime occurring in the area of his tribe and arresting any criminal or producing any person belonging to the tribe when so required.

Customs Legislation.—Consequent on the transfer to Palestine of the area around Lake Huleh which was formerly within the territory of Syria, the Customs Frontier and Prescribed Routes Ordinance (No. 15) was enacted to give the High Commissioner power to vary the political frontiers of Palestine for the purpose of Customs duties so that goods should be deemed to have been imported into or exported from Palestine when they pass a prescribed line within the political frontier. The High Commissioner may also prescribe routes and places of entry and exit for any class of goods. The Customs Duties Exemptions Ordinance (No. 23) consolidated the law with regard to the exemptions from Customs import duties and provided for the exemption of agricultural machinery and animals, etc., imported for agricultural purposes and of industrial machinery. The Customs Duties Amendment Ordinance (No. 24) established a system of specific duties on a large number of articles in place of the *ad valorem* duties at a flat rate which were charged under the Ottoman system.

The Tobacco Taxation (Amendment) Ordinance maintains for a further period of the year a reduced rate of tax payable on land sown with Turkish tobacco.

Game Preservation.—Ordinance No. 1 gives more ample powers than were prescribed in the Ottoman legislation for the protection of game and the granting of licences to shoot game.

Plant Protection.—Ordinance No. 10 similarly gives the Government larger powers than it had under the Ottoman Law to take measures for the prevention of the introduction and spread of diseases destructive to plants.

Road Transport Amendment.—Ordinance No. 3 maintains the principal Ordinance of 1921 and empowers the making of Regulations for providing for a total or partial exemption for a limited period from fees for registration of private motor vehicles registered abroad and brought into Palestine. It provides also for giving effect to international conventions to facilitate the international circulation of motor-cars; and authorizes the High Commissioner to enter into an arrangement with the Government in the neighbouring territories as to registration fees payable in respect of public motor vehicles passing between the territories.

Animal Tax Amendment Ordinance.—Ordinance No. 8 prescribes increased penalties for the concealment or removal of animals prior to their enumeration for the assessment of the tax.

Industrial Property.—The Ottoman Copyright Law of 1910 was amended by an Ordinance issued in 1920. The present enactment (No. 16) repeals that legislation and substitutes as the law of copyright in Palestine the Imperial Act of 1911 which was extended to Palestine by an Order in Council.

The Patents and Designs Ordinance (No. 33) replaces the Ottoman law on the subject, which was antiquated (being issued in 1865) and inadequate, by a measure based on the English Law, but with the difference that there is to be in Palestine no examination as to the novelty of an invention. The Ordinance provides also for the registration of patent granted in the United Kingdom in accordance with the scheme approved at the Imperial Conference.

Railway Lands.—Ordinance No. 17 was passed for the purpose of vesting in the Government the lands occupied by the British Army or the Palestine Railway Administration for the purpose of laying the railway line, subject to arrangement as to payment of compensation.

Charitable Trusts.—The Ottoman law contained no system of trusts save that of the Moslem Wakf. Ordinance No. 26 gives the power of creating trusts for charitable purposes under the control of the Civil Law and the Civil Courts. It is based on the Ceylon Law as to trusts and embodies a number of the principal provisions of the English Law with regard to trusts and provides for the incorporation of the trustees of any charitable trust. The Court may declare the existence of a trust where upon the evidence of documents laid before it or of a proved custom it is satisfied that any property in Palestine is held by the owner under an obligation to use it or the income for charitable purposes. Where such a trust is found to have been created under foreign law the Court will apply the law under which it was created so far as it is not contrary to public policy. Following the policy of the Ottoman legislation immoveable property transferred for charitable purposes shall be sold except where it consists of buildings required for the purpose of the trust, or the special permission of the High Commissioner to retain it for charity is obtained. The Ordinance is not to affect property which is the subject of a wakf or religious endowment constituted before a Religious Court.

Wireless Telegraphy.—Ordinance No. 20, following the original and amending English Statutes, gives power to authorize the establishment of wireless telegraphy installations, visual and sound signalling and similar methods of communication, subject to the control of the Government.

Companies.—The principal Law issued in 1922 is amended by an Ordinance (No. 29) which provides for the delegation of the powers of directors to a committee; and for treating as a Palestine company for purpose of registration fees a foreign company registered in Palestine which has as its principal object the carrying on of business in Palestine. An Ordinance (No. 34) dealing with debentures supplements the earlier legislation by provision for the issue of debentures by both companies and co-operative societies. A debenture may be secured either by a specified mortgage or by a floating charge, and powers are given similar to those exercised by the Chancery Court in England to secure a floating charge.

Bills of Exchange.—In order to meet the difficulties caused by the existence of three religious days of rest for different parts of the population, an Ordinance (No. 31) provides that a bill of exchange shall not be protested on any of the weekly days of rest or on any legal holiday proclaimed as such in the *Gazette*. The number of those days in Palestine where account must be taken of Moslem, Jewish and Christian feasts (in the case of Christians, of both the Western and Eastern calendar) amounts to over thirty. Where the day following the dishonour of a bill is one of the days of rest or a legal holiday protest is to be made on the following day; but interest is to be calculated from the date of maturity of the bill.

Validation of Taxation.—Ordinance No. 19 was passed to validate the imposition of the land tax and municipal house rate which had been assessed since the Occupation in a manner different from that prescribed by the Ottoman Law.

Appropriation.—Two Ordinances (Nos. 6 and 7) were passed for the appropriation of the expenditure of the financial year 1922–3 and of supplementary expenditure for the same period.

FOREIGN.

1. FRANCE.

[*Contributed by* OLIVER E. BODINGTON, ESQ.]

Registers of Births, Marriages and Deaths.—A law of December 15, 1923, provides for the reconstitution of the registers of births, deaths, and marriages destroyed during the war. The registers being kept in duplicate original, the reconstitution applies only to those cases where both registers have been destroyed.

The law follows very much along the lines of an earlier law providing for the reconstitution of the registers destroyed during the Commune in 1871. It prescribes the appointment of a Commission to sit for each district which shall examine the evidence brought before it in regard to each entry to be reconstituted.

Any private person, ministerial officer (*i.e.* notary, solicitor, etc.), who possesses, discovers or receives any copy or extract of an entry shall deposit the same with the mayor or justice of the peace of his residence, or abroad at a consulate or embassy within a month of its coming into his hands. He shall obtain a receipt therefor which shall have the same value as the copy deposited.

S. 4 of the law provides furthermore that any person who lived in a place where the registers were destroyed shall make a declaration as to births, marriages and deaths, relating to his family and within his knowledge.

The reconstitution is compulsory as regards registers for the years 1839 onwards, and it applies to all entries improperly or incompletely made during the hostilities.

French Nationality.—A new statute regulates the acquisition of French nationality in Tunisia. It provides for the repudiation of the French nationality conferred upon him by the son of a foreigner himself born in Tunisia, but stipulates that the son of a person who has thus repudiated French nationality if born in Tunisia is definitely French.

The statute determines the conditions of naturalization of Tunisian subjects, the nationality of the children and the military obligations of persons becoming French citizens under the law.

Criminal Law.—A law of February 7, 1924, institutes the new offence of desertion of the family. It provides that any person who has been ordered by judgment or order of a Court to pay a sum for the maintenance of his or her spouse, children or parents, and has arbitrarily failed to do so for three consecutive months shall be guilty of an offence punishable by imprisonment varying from three months to one year or a fine of 100 to 2,000 francs. If the offence is repeated, imprisonment is compulsory.

Marriage.—By a law of February 7, 1924, the marriage of persons whose parents have disappeared is facilitated. The law modifies arts.

71, 149, 150, 151, 154, 155, 158, and 160 of the Civil Code. It is beyond the scope of this summary to enumerate the reforms in detail, but their purport is to facilitate and simplify the procedure relative to consent and *acte respectueux* with regard to parents whose consent is required. The *acte de notoriété* or affidavit as to birth made under the new statute requires only three instead of seven witnesses.

A law of March 26 modifies art. 295 of the Civil Code with regard to remarriage of persons divorced from one another.

A husband and wife who have been divorced and one of whom has married another person and divorced that person, may now remarry provided either: (1) There are children of the marriage; (2) The husband or wife of the person remarried has died since the divorce.

Insurance.—By virtue of the law of February 23, contracts of insurance made with foreign companies are subjected to the same taxes as those made with French companies where: (1) the insurance is against fire or agricultural risks relating to property in France; (2) in case of life insurance or annuities the contracts are made by persons domiciled or habitually resident in France; (3) insurance against any other risk is contracted either:

(*a*) By persons domiciled or habitually resident in France unless the insurance relates to industrial, commercial or agricultural concerns situate outside France, or

(*b*) By persons domiciled or resident abroad relating to such concerns situated in France.

The taxes are paid by the companies if they have a branch in France, by their agents or representatives if such exist; by the insured in all other cases.

The law provides for certain formalities to be complied with, and certain books to be kept by agents and representatives of foreign insurance companies doing business in France.

Foreign insurance companies in addition to complying with the laws that specially concern them (and all insurance companies) must present a surety of French nationality for the approval of the government department concerned who will be responsible for the payment of all taxes and duties.

Pensions.—A codifying statute dated April 14 deals with all matters relating to pensions of soldiers, sailors and civil servants, their widows and orphans. It fixes the maximum and minimum of pensions, old age pensions, pensions for disablement due to service; it provides for a pension fund into which are paid percentages withheld from salaries. The pension fund is administered by a council of twenty-four members.

Commercial Travellers.—Paragraph 1 of art. 44 of the Code du Travail (code of laws relating to master and servant) had always provided that salaries of workmen be paid not less frequently than twice monthly and those of employees not less than once a month. By the law of April 23, this article is extended to commercial travellers, whose commissions must be paid at least once every three months.

Disabled ex-Service Men.—A law dated April 26 provides for the employment of disabled soldiers and sailors. Every commercial or industrial concern employing more than ten persons, and every agricultural concern employing more than fifteen, must employ a certain number of men disabled in the war. The proportion is fixed by decree for each

trade by the Minister of Labour, but is never to exceed 10 per cent. of the total number of persons employed in any one concern.

The law provides for probation of such disabled employees, prescribes rules for calculation of salaries to be paid to them and institutes a tax on employers who do not employ the prescribed number of disabled men when they could have done so. The tax is calculated per head below the prescribed number and per day of employment.

Aerial Navigation.—The statute bearing date May 31 deals fully with all matters concerning aircraft. It defines aircraft, provides for registration at the Ministry of Aeronautics and the issue of certificates of navigability or air-worthiness; it lays down rules as to the ownership, mortgaging and nationality of aircraft, their seizure and sale, their right to fly over certain zones, rules as to landing, as to aerodrome and as to policing the air. The law deals also with transport by air of persons and goods, prescribes rules as to contracts of transport by air and as to the hiring of aircraft; it determines the liability of pilots and owners of aircraft for damage and finally institutes certain criminal offences relating to aircraft, their pilots, owners and passengers.

It is a very complete statute, the treatment of which in detail would exceed the scope of this summary.

Alsace-Lorraine.—Until the promulgation of the law of June 1 legislation with regard to Alsace-Lorraine was confined to specific legislation and a great number of laws were made applicable to the province as and when required. The new statute brings into operation in Alsace-Lorraine the whole of the French Civil Code, certain specified parts of the Code du Travail and the Rural Code and a large number of statutes dealing with nationality, capacity of persons, protection of infants, lunatics, property, water, wrecks, estates of deceased persons, sales, leases, liens and mortgages, corporations, notarial deeds, etc.

Art. 2 of the statute enumerates the legislation which is specifically excepted. It comprises all fiscal legislation, sequestration and liquidation of enemy property, judicial organization, civil procedure, employers' liability, pensions for workmen and peasants.

Part I of the law is completed by the enumeration of such portions of the local law as are to remain in force.

Part II deals with special measures destined to effect the transition from German to French law, which are to remain in force for ten years from the date the law comes into operation. These measures relate to the capacity and status of persons, the matrimonial register, real property, insurance, and the certificate of heirship, an institution of the local law which is retained.

Parts III, IV and V of the law contain further provisional measures as to procedure and evidence, law governing contracts, prescription, marriage and divorce, execution and numerous miscellaneous provisions.

There is a second law of the same date which deals in the same exhaustive fashion with commercial law. Art. 1 enumerates the legislation which shall be applicable to Alsace-Lorraine. It includes the Commercial Code in its entirety, laws as to commercial books, companies, exchange, bills and promissory notes, banks, maritime law, bankruptcy. There are provisions in the laws as to commercial register, companies limited by shares, bankruptcy, commercial jurisdiction and procedure which modify the French and local law in force to suit the special circumstances and special measures applicable to the transition period.

It is well to mention that both the laws under review contain very complete provision as to vested interests or status already acquired at the date they came into force; as to references in the laws in force it is provided that references in the law still in force to the local laws now abrogated shall be read as referring to the corresponding French laws and references in French laws in force to other French laws not in force shall be read as referring to the corresponding local laws.

Both these laws came into force on January 1, 1925.

Master and Servant.—The law of June 21 codifies a number of previous statutes relating to this subject. It deals with the institution of Arbitration Courts for dealing with differences between master and servant, the election of the judges of such Courts, the procedure followed therein and the extent of their jurisdiction.

The law becomes part and is entitled Book IV of the Code du Travail (Labour Code).

2. ITALY.

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The legislation of the year 1924, together with that of the preceding year, gives the general line of the new "fascistic" regime, that tends to concentrate the authority in the hands of executive power, diminishing, by so doing, the importance of all the elective offices, and giving control to the central power of all the public activities.

In order to obtain this, the judiciary and administrative, political, military and educational bodies must be transformed, and all liberties must be reduced.

Chambers of Commerce.—These organs representing commercial and industrial interests are completely reformed. This act, R.D.L., May 8, N. 750, establishes their elements and functions.

Crimes against the Safety of the Realm.—State criminals are no longer to be tried by a jury in Assize but by professional judges in the ordinary courts (R.D., March 7, N. 411).

Examinations for the Exercise of Professions.—The university's degree is no longer to be sufficient for the practice of a profession; a supplementary examination before a special committee must be passed (R.D., June 27, N. 1388).

Gambling-houses.—By R.D.L., April 27, N. 636, gambling-houses are now, for the first time in Italy, allowed in places which have been for ten years health resorts and are not near towns of more than 200,000 inhabitants. Permission is given by the Ministry for Home Affairs after the approval of the local Council and a deposit of one million lire.

Schools of Economics and Mercantile Sciences.—A consolidated Act (R.D., August 28, N. 1618) gives all rules about these superior schools, assimilated to universities.

Local Inferior Courts.—Where there are more than one local Inferior Court (*preture*) in a single town, they are unified in one Court, divided in sections (May 22, N. 772).

Ministry of Communications.—To this Ministry are attached the offices that till now depended on the Ministry of Posts and Telegraph; the Committee of the Mercantile Navy and the Manager of the State Railway (R.D.L., April 30, N. 596).

Ministries.—Rules are given (R.D.L., July 1, N. 1100) for the organization of the cabinets and secretaries of the different ministries.

National Park of "Gran Paradiso."—A royal committee is founded (R.D.L., January 24, N. 168) to direct the administration of the park, once a royal park.

Office of Historical Researches in the Ministry of Foreign Affairs.—The office must collect all interesting materials on foreign affairs (R.D., June 27, N. 131).

Periodical Papers.—Transitory dispositions are given (R.D.L., July 10, N. 1081), in relation to the recent Act July 15, 1923, N. 3288, as to the publication of periodical papers.

Provincial Councils.—This consolidated Act (R.D., January 12, N. 1058) modifies the one of 1907 on these Councils (*Giunta provinciale amministrativa*), as to their function as a Court of Law. Some sections have been modified by R.D.L., October 23, N. 1672.

Game.—The Act of June 24, 1923, N. 1420, is modified by R.D.L., March 24, N. 533; special dispositions are given in regard to the sale of game introduced from foreign countries, when shooting is not allowed in Italy.

R.D.L., May 4, N. 754, determines the periods in which shooting of different animals is allowed.

State Council.—R.D., June 26, N. 1054, and R.D., June 26, N. 1055, modify the consolidated Act, 1907, as to the composition and functions of the Council (*Consiglio di Stato*).

Supreme Court of Judicature.—With the abolition of these Courts in Turin, Florence, Naples and Palermo the one left in Rome has the special task of keeping the decisions of the Inferior Courts in harmony with its own precedents, and special judges must continually compare the cases decided in the different sections of the Supreme Court, so that the same impulse may guide them all (R.D.L., February 22, N. 268).

Titles of Nobility.—The use of titles is regulated by R.D.L., May 20, N. 442, to the effect that anyone who wishes to use a title must give notice to the special office (*consulta araldica*), and if its decision is favourable, he must have the title registered in this office. Until the title is registered, nobody can use it.

Universities.—A complete reform has been introduced by R.D., April 6, N. 674, so as to give a certain autonomy to each university, under the general control of the Ministry of Education.

Voluntary Police.—The new organization of the corps (*Milizia volontaria per la sicurezza nazionale*) includes this in the military forces of the Realm, with a hierarchy corresponding, with different names, to that of the military corps: General Consul, Consul, Proconsul, Senior, Centurion. It is directly subject to the Prime Minister (R.D.L., August 4, N. 1292). R.D.L., October 30, N. 1686, gives rules for the special section of voluntary railway police.

3. UNITED STATES OF AMERICA.[1]

Federal Legislation.

Foreign Affairs.—The settlements of the indebtedness of Finland and of Hungary to the United States made by the World War Foreign Debt Commission are approved by Public 41 and Public 128. In each

[1] Summarized from the 1924 Report of the Committee of the American Bar Association on noteworthy charges of Statute Law.

case the settlement is along the lines of that already authorized in the case of Great Britain. It provides for annual instalments for 62 years, with interest on unpaid balances at 3 per cent. for 10 years, and thereafter at 3½ per cent. The amount of the obligation in the case of Finland is, in round numbers, $8,300,000; in the case of Hungary, $1,700,000. In the case of Hungary, it is provided that the payment shall be secured in the same manner as the obligations which are funded by the settlement, but the Secretary of the Treasury may release such security on such terms as he finds necessary in order that the United States may co-operate with other friendly nations in enabling Hungary to finance its immediate needs.

Commercial Regulations.—Public 263 prohibits the registration as a trade-mark of the portrait of any deceased President of the United States during the life of his widow without her consent in writing.

A proviso in Public 201, making appropriations for the Department of Agriculture, extends to cattle-men a certain kind of business insurance which is not uncommon in America, by authorizing the Secretary of Agriculture to require a reasonable bond for a person buying or selling cattle in a stockyard or furnishing stockyard service. The proviso also authorizes the Secretary, after due notice and hearing, to suspend any registrant for a reasonable period if he finds that such registrant is insolvent or has violated any provisions of the Packers and Stockyards Act. Since there is no penalty for doing business during the period of suspension, it is doubtful whether the suspension can be enforced.

Organization of Government.—Public 135 provides that the diplomatic and consular service shall be known as the foreign service of the United States, and permanent officers in such service below the grade of minister, all of whom are subject to promotion on merit, are given the official designation of "Foreign Service Officer." They may be appointed, subject to confirmation by the Senate, as secretaries in the diplomatic service or as consular officers, and may be assigned to duty in either branch of the foreign service at the discretion of the President. Hereafter appointments to the position of foreign service officer shall be made after examination and a suitable period of probation in an unclassified grade or by transfer from the Department of State after five years of continuous service. Only United States citizens are eligible for examination. A foreign service retirement and disability system is established, supported by a contribution from the pay of the officer which may be increased by Congress to produce retiring allowances of a fixed per centum of pay.

Public 214 attempts to free the Tariff Commission for at least one fiscal year from any suspicion of improper influences. The so-called elastic provisions of the Tariff Act of 1922 (ss. 315, 316 and 317) confer upon the President certain powers in respect of raising and lowering tariff rates, and these sections direct the commission to advise the President in the exercise of these powers. S. 318 of the Tariff Act also makes it the duty of the commission to ascertain conversion costs, costs of production, import costs, producers' selling prices, and other facts affecting competition between articles of the United States and imported articles. Public 214 provides that no part of the appropriation for the Tariff Commission for the fiscal year ending June 30, 1925, shall be used for the salary of any member who participates in any of the proceedings

under these sections if he or any member of his family has any "special, direct and pecuniary interest" in, or if he has acted as attorney, legislative agent, or special representative in respect of, the subject-matter under consideration.

The convenience of corporate organization is recognized by Congress in the Act (Public 185) creating an Inland Waterways Corporation, for the purpose of carrying on the operations of the government-owned inland, canal and coastwise waterways system to the point where the system can be transferred to private operation. The capital stock of the corporation is $5,000,000, all of which is subscribed by the United States. The duty is imposed upon the Secretary of War to govern and direct the corporation.

Workmen's Compensation.—Public 196 amends the federal Employees Compensation Act of September 7, 1916, so as to include "diseases proximately caused by the employment." This Act settles the long-standing dispute between the Employees' Compensation Commission and the Comptroller-General, the Commission holding that the Act already authorized compensation for occupational diseases, and the Comptroller-General holding the contrary.

With the intent of preventing the Comptroller-General from going behind the interpretation of the Compensation Act by the Commission, the Act also provides that in the absence of fraud or mathematical error the findings of fact in, and the decision of the Commission upon, "the merits of any claim" shall, if supported, by competent evidence, not be subject to review by any other administrative or accounting officer of the United States.

Property.—Public 119 extends until May 22, 1925, the provisions of the District of Columbia Rents Act, providing a rent commission to control rents in the District of Columbia, and declares that the emergency described in the original Act still continues.

The Act also provides (apparently as permanent legislation) that hotels in the District of Columbia shall post in every room a sign stating the price per day, and a copy of the rates shall be filed with the commissioners of the District of Columbia. The rates so charged shall not be advanced in less than 30 days from the date of the approval by the commissioners of a written application therefor, and if an advance in rates is granted, the same requirements with reference to posting and filing copies with the commissioners shall apply. Whoever violates these provisions or charges any guest a rate in excess of the posted rates is to be fined not less than $10 nor more than $100 for each offence. Whatever may be the ruling of the Supreme Court as to the constitutionality of the Rents Act (the Court of Appeals of the District of Columbia held it unconstitutional on November 3, 1924) the validity of the hotel provision is very doubtful. Even assuming that the hotel business is subject to rate regulation as a public utility, it should be noted that the Act makes no provision for notice or hearing, and lays down no standard for the guidance of the commissioners in approving or disapproving the proposed increase in rate.

Miscellaneous Police Legislation.—Public No. 238 forbids the discharge of oil by ships within "the coastal navigable waters of the United States," which are defined to mean the sea within the territorial jurisdiction of the United States and inland waters navigable in fact in which the tide ebbs and flows, thus not including fresh-water rivers or the Great

Lakes. Pollution of the shore and water within the territorial jurisdiction may still result from dumping of oil from vessels beyond the three-mile limit. This, Congress has recognized as an international question and has requested the President to call a conference on oil pollution (42 Stat. 821). The enforcement provisions of the Act are very interesting. Clearance may be withheld from a vessel which violates the Act or any regulation which the Secretary is authorized to make to permit discharge of oil under certain conditions. The criminal penalty of fine or imprisonment is imposed upon violators not only of the Act, but also of the regulations and the licences of ships' officers responsible for violations of the Act or regulations may be revoked for violations of the Act.

Nationalization.—Indians of the country were given privileges even greater than they had asked, by Public 175, which provides that all Indians born within the territorial limits of the United States are declared to be citizens of the United States, but the granting of citizenship shall not impair or affect their right to tribal or other property.

Prisons.—Public 209 establishes an industrial prison for federal women prisoners. The inmates are to be instructed in the common branches of an English education, and in some trade, occupation or pursuit.

Public 12 provides for the establishment and operation in the United States Penitentiary at Leavenworth, Kansas, of a factory for the manufacture of shoes, brooms and brushes. The products of the factory are to be sold only to the Government of the United States at current market prices fixed by the Attorney-General. The various departments of the Government are forbidden to purchase elsewhere any of the products of the factory so long as the supply made there is sufficient. The inmates are to be paid such wages as the Attorney-General may direct.

Prohibition and Narcotics.—The Act of February 9, 1919, as amended, permits the importation of crude opium in such amounts as the Federal Narcotics Control Board may find necessary to provide for medical and legitimate uses only. Public 274 amends this Act so as to prohibit entirely the importation of crude opium for the purpose of manufacturing heroin.

Public Resolution 20 authorizes the appropriation of $40,000 for the participation of the United States in two international conferences for the enforcement of The Hague Opium Convention, but with a proviso that the Representatives of the United States shall sign no agreement which does not recognize that the use of opium products for other than medical or scientific purposes is an abuse and not legitimate, and that it is necessary to exercise control of the production of raw opium in such manner that there shall be no surplus available for non-medical and non-scientific purposes.

Public 103 authorizes the Secretary of the Navy to transfer to the Treasury Department for the use of the Coast Guard such naval vessels as can be spared by the Navy. The Act also authorizes the appointment of a number of temporary officers of the Coast Guard. The act is entitled, "An Act to authorize a temporary increase of the Coast Guard for law enforcement," the principal reason for the passage of the Act being the better enforcement of the Volstead Act.

State Legislation.

Courts.—Interest in the administrative organization of Courts continues. Massachusetts 244 establishes a judicial council to make a continuous study of the organization, procedure and practice of the Courts. The council consists of representatives of the various classes of Courts in the Commonwealth and four members of the Bar to be appointed for four-year terms by the Governor with the advice and consent of the Executive Council. The council shall report annually on the work of the various branches of the judicial system and, for the consideration of the justices of the various Courts, make suggestions in regard to rules of practice and procedure. C. 131 amends the section of the general laws requiring returns from the clerks of Courts to the State Secretary by requiring returns expressly in respect to divorce cases and by requiring returns in criminal cases showing the number of cases pending at the beginning of each year, number of indictments returned during the year, number of appealed criminal cases answered and disposition of cases during the year and number of days during which the Court has sat at the hearing of cases. Mississippi 151 simplifies the practice in Chancery Courts in an attempt to prevent immoderate delays therein. Georgia p. 62 permits depositions in a case to be taken while both parties are competent to testify and permits these depositions to be admissible after death subject to the right of rebuttal of the opposite party. Louisiana No. 29 provides for notice and hearing to opposite parties before preliminary writs of injunction are issued. The Court, however, may grant a temporary restraining order to prevent immediate irreparable injury if a bond is given. The Act regulates procedure, and gives the Court power to punish, by a fine not exceeding $1,000 or imprisonment not exceeding twelve months or both, disobedience of any "restraining order or writ of injunction." Appeals are not allowed from orders in respect to restraining orders, but "a devolutive but not a suspensive appeal from an order granting, refusing or dissolving a preliminary writ of injunction."

Attorneys.—Georgia p. 75 regulates the argument of counsel in City and Superior Courts by forbidding more than two counsel to argue for each side without express leave of the Court and only one counsel to be heard in conclusion. In criminal causes below felony and minor matters the counsel's argument is limited to a half-hour without special leave of the Court and in felony cases to one hour on a side, except that in capital felonies they may take two hours. The Court may grant an extension.

Civil Procedure.—New York 635 allows the defendant in a civil action for libel to prove that the plaintiff has already recovered damages or has received or agreed to receive compensation in respect of a libel of similar purport or effect as the libel for which the action was brought. The evidence is for the consideration of the jury in fixing the amount of the verdict. C. 636 permits Courts to consolidate actions brought by the same plaintiff against several defendants on account of "respective libels of similar purport or effect" on application of the defendants. Before trial of a consolidated action the defendants in any new action instituted by the same plaintiff of the same character may join. The jury assesses the whole amount of damages in one sum, but a separate verdict is taken in respect to each defendant and the damages shall be apportioned among defendants by the jury.

New Jersey 232 makes the Secretary of State agent for service of process in any civil suit for the owner or operator of a motor vehicle not licensed in New Jersey where the suit is because of an accident in which the motor vehicle is involved. The Act declares that this is a condition of the privilege extended to non-residents of driving such motor vehicles without registration. Further means of enforcement is the provision which requires a magistrate, before whom any foreign owner or driver is brought, to require him as a condition of his release on bail to execute a written power of attorney appointing the Secretary of State his agent for the service of process for suit instituted by any resident of the State against him on account of the collision or accident for which he is brought before the magistrate. Another means of securing service on non-resident owners permits service of process on any person over the age of fourteen who has custody of the automobile which caused the injury for which the suit is brought and the posting of the process in a conspicuous place on the automobile. It is expressly directed that this Act be construed to extend the right of process. By Massachusetts 10, if the real property of a defendant is attached and no service made upon him the attachment shall be void unless it appears on record that such notice has been given to him within a period of one year.

Virginia 440 authorizes the finding of an officer who collects money on any legal process or claim, if he does not within thirty days notify the person entitled to receive the money. Louisiana No. 198 grants to judgment creditors, on execution of judgments, the right "to examine the judgment debtor upon all matters pertaining to his estate." Virginia 270 authorizes as an alternative the beginning of actions before justices in cities or specified counties by motion five days after notice in writing. The notice must contain a brief informal statement of the plaintiff's claim and must be served.

Criminal Procedure.—Because of the interest in the search and seizure section of the Constitution aroused by prohibition enforcement, the most interesting change in criminal procedure this year is 184 of Massachusetts which amends the law permitting searches for breaches of the game law without warrant by striking out the words "without a warrant."

Juries.—Massachusetts 311 provides that a juror need not be a registered voter. Louisiana No. 19 allows women to serve both as grand and petty jurors.

Decedents' Estates.—Rights to inherit are affected by South Carolina p. 1188 and Virginia 303. The South Carolina Act prohibits persons unlawfully killing others from benefiting by the death of such person by will, inheritance, remainder, insurance or otherwise. The Virginia law amends a section of the code providing that where a person makes a will without provision for after-born children, the law must be construed as if its devises and bequests had been limited to take effect if the child died under the age of twenty-one years, unmarried and without issue. The amendment gives the child the same right of inheritance as if the parent had died intestate, but if the child dies under the age of twenty-one unmarried and without issue, his part of the estate reverts to the devisee or legatee under the will. South Carolina p. 1140 abolishes the Rule in Shelley's Case, where a remainder in real estate is limited to heirs of a person to whom life estate is given, so that the remainder-men take as purchasers in fee simple.

Lost heirs are the subject of Virginia 302, which authorizes the Court

to distribute an estate as though the person were dead if the vesting of his interest depends on his having been alive at a particular time and with the use of reasonable diligence it cannot be shown whether he was alive at the time, but requiring a bond from the distributee. Under New Jersey 164, an heir or devisee shall not be entitled to have a mortgage on real estate which he receives discharged out of personal estate or other real estate of the ancestor or testator, but the real estate shall be primarily liable for the debt unless there is a special direction to the contrary in the will. The most important administrative provision in respect to the estate is in New York 160, under which an executor or administrator is deemed a resident of the county of his appointment as well as the county in which he actually resides. The same State, 100, gives the surrogate power to enforce the delivery of personal property or the payment of the proceeds or value of personal property belonging to or withheld from the estate. Massachusetts 8 requires that no waiver of a will by the guardian of an insane person or a minor shall be valid until approved by the Probate Court after notice to persons whom the Court deems proper.

Georgia p. 60. The Act authorizing recovery for homicide is amended by adding to those who may recover, the administrator of the deceased person for the benefit of the next of kin, if dependent on the deceased or to whose support the deceased contributed, the recovery to be determined by the degree of dependency or the pecuniary loss sustained by the next of kin. Louisiana No. 149 authorizes the sale of a minor's or interdict's property at private sale under an order of the Court which must fix the minimum price.

Domestic Relations.—The principle of equality of men and women continues to be carried into the law of domestic relations. Kentucky 40 allows a married woman to serve as executrix, administratrix, guardian or in any other representative or fiduciary capacity "now allowed to men." The Louisiana Code provided that all persons have the capacity to contract except those whose incapacity is especially declared by law, and lists as incapables insane, interdicts, minors, and married women. No. 45 strikes out the list in which minors and married women constitute the most interesting items. New York by 439 allows guardianship in socage to parents jointly or the parent having custody of the minor, and strikes out the provision that as between relatives of the same degree of consanguinity, males shall be preferred. The tendency is not limited to giving women rights. It also is extended in New York 471 to enlarge their duties. That section amends the law which provided for the use of the property of absconding persons for the support of their families to bring it into relation with the modern notion of equality of sexes by making the rules which formerly applied to the father and husband apply to the wife and mother. Mississippi 155 extends the law punishing family desertion by applying it to any parent who deserts or wilfully neglects or refuses to provide for children under sixteen, thus making subject to its terms a woman who fails to provide for her legitimate or natural children. The Act also permits the disclosure of confidential communications between husband and wife and makes them competent witnesses against one another, subject to the rules against self-incrimination, and provides that no greater evidence be required to prove marriage or parenthood in direct actions than to prove the same facts in civil actions.

The ancient custom of dower continues to require modification. Virginia by 304 limits a widow's dower to one-third of her husband's real estate and makes her dower in the rest of his real estate subject to the rights of her husband's creditors and if he dies party testate and without issue, subject also to the satisfaction of the devisees under the will. C. 345 makes a similar change in respect to the curtesy of a surviving husband.

Property relations of husband and wife are regulated by New Jersey 150, Massachusetts 56, and Mississippi 160. New Jersey validates deeds signed by husband and wife if their signatures have been duly witnessed, though the name of one of the parties has been omitted in the body of the deed. Massachusetts amends the law in respect to the releasing of the right of dower, curtesy and homestead by no longer requiring an express provision in the deed that the right is released, but making sufficient the signature of the deed by the spouse or other person affected. Mississippi permits the owner of an exempt homestead where the spouse is insane to execute a conveyance or encumbrance on it without the signature of the spouse. Massachusetts by 345 extends the former rule depriving a surviving husband of his right to waive the provisions of his wife's will and claim his legal share in her estate in case he had deserted his wife or she was living apart from him for justifiable cause, so that he cannot claim the portion of her estate which he would take if she had died intestate under such conditions, nor if she leaves a will would he be entitled to his tenancy by curtesy. Applying the principle of equal rights, the same rule is applied to wives who have deserted their husbands or whose husbands are living apart from them on justifiable grounds. South Carolina p. 1111 permits any woman, whether of lawful age or a minor, to bar her dower by renunciation in favour of the person succeeding her husband in title, either immediately or mediately. Legitimacy is the subject of New Jersey 144 which makes legitimate a child of a ceremonial marriage, even though the marriage be subsequently annulled or declared void. Mississippi 162 extends the right to inherit from illegitimates to the "kindred" of the mother. The same State 156 applies the civil law rule in computing relationship wherever the computation of relationship by blood or marriage is brought in question in construing any state statute.

Louisiana was concerned with the fate of the children in case of divorce or separation. No. 196 provides that upon divorce or judicial separation the tutorship of each minor child belongs of right to the parent under whose care he has been placed and makes this tutorship by nature. In the same State the former law gave custody of the children in cases of separation to the party who obtained the decree. No. 74 applies the rule to divorce. No. 197 makes the right of the father to administer the estates of his minor children cease upon judicial separation. Act No. 72 amends the law placing a minor under a tutor after a dissolution of marriage, by extending the rule to cases of separation from bed and board. The mother and her expected children are attempted to be guarded by Louisiana No. 164, which forbids the officer issuing marriage licences to issue licences to any male person who does not present a certificate of freedom from venereal disease. Microscopical examinations for such disease may be made by the state laboratory free of charge at the request of any physician. The examination required must be made by a physician, and the fee shall not exceed $2, and may be made for indigent persons by public officials or health officers.

New York makes a number of amendments in form and some in substance in the law relating to children. C. 477 amends the penal law in respect to children, chiefly by improving its form. C. 389 extends the term "wayward minor" to include any female between the ages of sixteen and twenty-one who is wilfully disobedient to her parent or guardian and in danger of becoming morally depraved. C. 537 makes formal improvements in the children's law and extends the law in certain respects, notably by making begging in public places delinquency, need of medical or surgical care, destitution, and adding to the classes of neglected children those unlawfully kept out of school. The duty of institutions to keep records for children is carefully defined and it is made unnecessary to have the consent to adoption of a parent legally declared insane or mentally defective. Instruments of adoption must be recorded in a county clerk's office. Louisiana by Act No. 109 requires that the adoption of an adult shall be by an act signed by both adopter and adopted and recorded in the parish wherein the person adopting resides. No. 48 permits an officer of an institution in charge of a foundling to sign an act of adoption. New York 223 amends extensively the law relating to adoption and makes requirements in the interest of the child more stringent. Orders directing adoption are made public records. South Carolina p. 1190 regulates placement in homes of children and requires a certificate from the Board of Public Welfare to permit bringing into the State a child for such purposes. The State Board is guardian of children committed to it and may consent to their adoption; it is required to make investigations and to continue supervision of children.

Crimes and Prisons.—A movement for honest advertising is responsible for Virginia 409, which makes it a misdemeanour to include in advertising matter statements which are deceptive and misleading, and for South Carolina p. 1133 where the misdemeanour consists in including in advertising matter "any assertion, representation or statement of fact which is intentionally untrue." Either with the same end or for the purpose of preserving the dignity of the Courts, New Jersey by 192 declares it a misdemeanour to use any notice, letter or advertisement in imitation of a court summons or any other formal court paper. Kentucky by 47 makes it unlawful to repeat or scatter false rumours or reports of a scandalous or harmful nature or which may be detrimental to the character or standing of any other person, whether he is a private citizen or officer or candidate for office. An interesting rule of procedure is included making persons scattering the report guilty unless they can show that the source and foundation of the report was carefully investigated and there were "reasonable grounds for repeating same," and to make such defence available the accused must be able to give the names of the persons furnishing the information on which the rumour or report was based.

New York 577 makes it a misdemeanour to put personal property subject to a lease beyond the control of the lessor or to remove or conceal the property with intent to defraud. It is also a misdemeanour to buy, receive or aid in concealing such property with intent to defraud. Under New Jersey 173 it is a disorderly act for a person to loiter in a public place or on private property not his own, if under the influence of intoxicating liquor, or if not under its influence, to use offensive, loud or indecent language. Virginia 438 makes it a misdemeanour for any person

fraudulently to procure or assist to procure a licence from any state body licensing any business or profession. Georgia p. 192 defines the crime of arson and attempt to commit arson. The punishment in case of burning a dwelling-house is two to twenty years in the penitentiary, but if the arson produces death or maiming of any person, the punishment is death. For the arson of other buildings the punishment is one to ten years, and for arson of personal property the crime is only committed when the goods are insured, and the penalty is from one to five years. The punishment for an attempt at arson is two to five years.

How a public interest to be protected by a criminal suit may be infringed by Act formerly regarded as affecting only a private interest is brought out in Louisiana No. 120, which penalizes putting signs on property without the consent of the owner. Here the public interest must be to do away with the signboard nuisance. Louisiana No. 165 authorizes the filing by persons dealing in beverages or food in bottles, boxes or other containers of the mark on such bottles and makes the use of such marks without the consent of the owner a crime. Protection of the public from fraud must be the public interest in this Act. Louisiana No. 80 makes it unlawful to tamper with electrical equipment in a building. Another tendency in punishment is exemplified this year in Georgia p. 195, which changes the method of inflicting the death penalty from hanging to electrocution.

Prison administration is dealt with by New York 298, which authorizes the Prison Commission to close insanitary or inadequate county jails, and Massachusetts 309, which requires a psychiatric examination of prisoners in jails or houses of correction, serving sentences of more than thirty days, except for non-payment of fine. Provision is also made for an investigation of past history and environment and the records are all to be filed with the Commissioner of Probation. New York by 601 creates a Prison Industries Board, the Superintendents of State Prisons, of Prison Industries, and of Purchase, which has control over prison industries, fixes pay of prisoners and prices of prison-made goods. The Superintendent of Prison Industries is a new officer appointed by the Governor to administer prison industries and farms. Formerly the statute went into some detail on the method of determining earnings of prisoners. The new law turns the duty over to the board, limiting the amount available for payment to the net profits of the industries of the prison in which the prisoner is confined after the State is paid 30 per cent. of the net and a fixed allowance for maintenance. Prices and pay in charitable institutions are to be fixed by the managing board of each institution. Georgia p. 119 authorizes the Highway Department to employ convicts in construction and maintenance of the state highway system.

Uniform State Legislation.—Virginia 482 is the Uniform Stock Transfer Act. Massachusetts 147 is the Uniform Fraudulent Conveyance Act. Massachusetts 200 regulates the appointment of commissioners from the State. Georgia p. 126 is the Uniform Negotiable Instruments Law. Louisiana No. 226 is the Uniform Fiduciary Act.

Prohibition and Narcotics.—Virginia 407 is an elaborate Act regulating ardent spirits, which prohibits alcoholic liquor and all beverages containing more than one-half of 1 per cent. of alcohol by volume. Mississippi 244 strengthens the section of the law permitting search and seizure in liquor cases by making it the duty of a peace officer to search

any vehicle in which he has reason to believe " and does believe " that intoxicating liquor is being transported. His profession of good faith protects him from civil or criminal prosecution for such search and seizure without warrant and the testimony of the officer and all liquor and appliances for manufacture and transportation so seized are admissible as evidence. The Act expressly forbids the search of any building without a search warrant, but permits the testimony " of any lawful officer " and the introduction in evidence of incriminating articles seized by such officer making a search of a building without a proper warrant. Louisiana No. 102 fixes a heavy penalty for persons who manufacture for sale or sell or offer for sale intoxicating liquor for beverage purposes containing lye, nicotine, wood alcohol, India berries, or other poisonous substances. Georgia p. 198 requires prohibition officers to report seizures within ten days, in order to secure a share of the proceeds of the sale of the goods seized, and at the end of a period of ten days, allows any citizen of the State to report the seizure and in such cases the proceeds of the sale go to the public school fund of the county in which the seizure was made.

Mississippi 248 extends the Act formerly regulating the sale of cocaine to opium, morphine and their derivatives and compounds. The Act punishes only the sale or giving away of the drugs and the opinion as to the seriousness of the crime is evident in the penalty, the maximum being ten years in the penitentiary, the minimum one year. Mississippi 249 applies to opium, morphine, their derivatives and compounds the rule that the State may under an indictment charging a single offence introduce proof of more than one offence. Kentucky by c. 104 modifies the opium law by making criminal the forging of prescriptions for opium or its salts and by increasing the penalties, notably for second convictions, which are punished by not less than one year or more than five years' imprisonment without alternative of a fine and entail in the case of a pharmacist, physician, dentist or veterinarian the forfeiture of his certificate to practise. C. 105 similarly amends the Act regulating the sale of cocaine and eucaine. Louisiana No. 41 prohibits the sale, possession, transportation, delivery or use for manufacture of the Mexican plant known as Marajuana except in small amounts for liniments for external use. The Court is not allowed to suspend sentences of persons convicted under this Act.

Labour.—The tendency to make Workmen's Compensation Acts more liberal, which has been noted in previous years, continues to influence Legislatures. New York 318 grants benefit after seven days, and Massachusetts 207 begins payments from the date of injury if incapacity lasts four weeks. Louisiana No. 216 increases the scale generally, notably raising the weekly maximum from $18 to $20; New York 209 increases the maximum basis for computing death benefits from $125 to $150. New York 500 takes care of the case of temporary total disability and permanent partial disability, both resulting from the same injury, by providing that the period of temporary total disability in the case of the loss of a member, in excess of a specified number of weeks, shall be added to the compensation period for permanent partial disability and no other payment for temporary total disability allowed. New Jersey 187 requires reports of compensation cases up to resumption of work by the injured employee.

Hours of work for children under 14 in canneries or factories are limited to eight a day, of other persons to ten, by Mississippi 314, but the

Act does not apply to fruit or vegetable canneries. Massachusetts 237 adds the 48-hour week to the 8-hour day as conditions in contracts of work for the State, but allows exceptions when, in the opinion of the Commissioner of Labour, public necessity so requires. Virginia 370 allows employees of the State who are on duty seven days in each week two Sundays in each calendar month free. New York 375 limits the hours of labour of males between 16 and 18 in mercantile establishments. Massachusetts 145 extends the Weekly Payment Act to cover certain employees, whether engaged in business or not, and requires that casual employees, those who work for a period of less than six days, be paid within seven days of the end of their term of employment. Virginia 410 establishes a free employment service under the Commissioner of Labour. Massachusetts 494 authorizes the City of Fall River to borrow in excess of the statutory limit to provide work for the unemployed by the construction of certain streets and sewers.

Highways and Motor Vehicles.—Legislation respecting motor-cars is an interesting example of the way in which the law responds to the new problems which mechanical improvements in modern life bring about. The difficulty in deciding whether the bureau of motor vehicles should be under the Tax Commission because cars pay licences or under some other department because of the important police function of regulating the use of motor vehicles, is given a new solution in New York State. After taking the bureau of motor vehicles from the Secretary of State's office to put it entirely under the control of the Tax Commission as essentially a tax function, the Legislature in 360 has adopted the system of creating a separate bureau in the office of the Tax Commission under a Commissioner appointed and removeable by and whose salary is fixed by the President of the Tax Commission, but except for the reports he must make, otherwise independent of the Commissioner with power to appoint his own subordinates. The Act modifies the existing law by requiring the registration of all persons who operate their cars and allowing the Commissioner to require an examination if he sees fit. The Act also defines reckless driving and makes it a misdemeanour and provides that the second conviction of operating a motor vehicle while intoxicated shall constitute a felony. The ease with which automobiles are stolen inspired the legislators to make it a felony to deal in motor vehicles which a person has reason to believe have been stolen or even to have in possession a motor vehicle which a person knows or has reason to believe has been stolen. The punishment for this felony is supplementary to penalties for larceny. In the same vein the Act makes it a misdemeanour to sell a motor vehicle on which the original number has been defaced, unless there is stamped thereon a special engine number issued by the Commissioner. The wrongful possession of a motor vehicle with a defaced engine number is also made a misdemeanour. It is expressly made the duty of peace officers to seize such motor vehicles and arrest the person in possession. Reports of stolen cars must be made at once to the Commission, who shall prepare a list of all such cars. Licences may be suspended or revoked by magistrates, the Police Commissioner of the City of New York, or the Commissioner. They must be revoked in case of homicide or assault arising out of the operation of a vehicle, on second conviction for driving while intoxicated, and third, a violation of speed rules. They may be suspended for other causes. Co-operation with other States is evidently the object

of the provision permitting suspension or revocation for wilfully evading prosecution for an offence against the motor vehicle laws of another State or jurisdiction. Revocation or suspension is an administrative act reviewable by the Supreme Court as such and a hearing is required. The Act contains the common provision that every operator of a motor vehicle involved in an accident in which a person is killed or injured must forthwith report to the Commission to enable him to carry out his duty in respect to regulation. All motor accidents must be reported to him by police or judicial officers. Virginia 99 decides on a separate department. A State Motor Vehicle Commissioner, elected by the legislature, is created to take over the duties of the Secretary of the Commonwealth in respect to motor vehicles and the gasolene tax.

The special danger of accidents from fast-running automobiles continues to call for special punishment. The provisions of New York 360 have been already noted. South Carolina p. 1167 and Kentucky 46 make a jail sentence compulsory on a second conviction for operating a motor vehicle in an intoxicated condition. South Carolina applies the Act expressly to narcotics, and Kentucky penalizes neighbourly leniency by fining any sheriff or peace officer who fails to enforce the Act rigidly. Louisiana No. 78 raises the grade of the crime of injuring person or property when driving a car when intoxicated, from a misdemeanour to a felony. Massachusetts 498 requires the registrar of motor vehicles to suspend the licence of any person operating a motor which causes the death of another and to revoke the licence after hearing unless he finds that the death occurred without serious fault of the operator. A new licence shall not be given to such person within six months, nor thereafter except in the discretion of the registrar. The same State, in 183, penalizes any person who knowingly permits his operator's licence to be used by another, or falsely impersonates another in making application. Louisiana No. 65 sets a criminal penalty for throwing any missile or shooting with a firearm at moving vehicles or any human being therein.

While securing criminal punishment the law does not leave out of consideration the importance of providing means to meet civil damages in cases of injury. New York 413 applies to the whole State the rule in effect in cities of the first class under which the owners of motor vehicles carrying passengers for hire, operated by a public service corporation, or owned and operated by a municipality, must have indemnity bonds or insurance policies and by 639 liability policies must contain a provision insuring against the injury by the car when driven by any person with the express or implied permission of the owner. C. 534 writes into the law the responsibility of every owner of a motor vehicle for death or injury resulting from negligence in the operation of the vehicle by any person legally using it, with the express or implied permission of the owner. Louisiana No. 12 combines in an interesting way criminal and civil sanctions for negligence. It recognizes the mutual obligations of railroads and drivers of motor vehicles to prevent accidents at grade crossings. It requires engines to whistle and ring their bells and the railroad company to put up a sign at the grade crossings, and on the other hand requires automobiles to stop at railroad crossings. Violation of the Act is made a misdemeanour. But, however, the Act expressly provides that in civil suits for damages by the driver who has violated the Act his violation shall not affect his recovery of damages. The question of negligence or the violation of this Act shall be left to the jury,

and the contributory negligence statutes shall apply. The result of this interesting provision is that the violation of the statute is not made *per se* proof of contributory negligence. The Act only applies to cities and towns with a population of over 10,000.

The problem of highways is closely connected with motor-cars. South Carolina p. 1193 establishes a state-wide system of roads to be constructed and maintained from a licence tax on motor vehicles, the gasolene tax and federal aid. The licence tax increases with weight and is much heavier on trucks than passenger cars, and there is also a licence on dealers for each " make " of motor vehicle sold. Virginia 448 codifies the law in respect of the State Highway Commission. New Jersey 15 authorizes the creation of county board of shade tree commissioners for the protection of trees and shrubbery on highways. The Commission may prescribe a fine not exceeding $100 for violation of its rules. Massachusetts 189 amends the definition of non-resident in the Motor Vehicle Law by a proviso that a non-resident as defined who owns commercial motor vehicles operated in the commonwealth for more than thirty days in the year shall not be deemed a non-resident. Georgia p. 307 creates a coastal highway district of the coast counties to take effect on the ratification of the Constitutional Amendment. The Act permits the issuing of bonds of the district in a limited amount.

Property.—Zoning continues to hold a leading place in legislation affecting property. Flexibility through allowing exceptions to the regulations by order of a board is included in the Massachusetts Act, 133, in the special Act for Boston, 488, in the Act of New Jersey, 146, and South Carolina, p. 1066. New Jersey 146 is a general statute taking the place of an earlier Act, which in addition to zoning for height and size of buildings, percentage of lot occupied, location and use, zones for " density of population." South Carolina p. 1066 is also a comprehensive Act. The comprehensive Boston law, 488, allowing zoning for bulk and use, expressly permits single residence districts. The Act itself establishes the zones by reference to a map filed by the Boston Planning Board subject to change only by a special board named by the Mayor from candidates selected by specified business, labour and professional groups. The Mayor has one free appointment. In New York 295, relating only to New York City, an order may be issued requiring that conditions contrary to a zoning ordinance be remedied and making violation of the zoning laws by the owner, agent, lessee or tenant, architect or contractor, a misdemeanour and also permitting the corporation counsel to enjoin a violation. New Jersey 49 makes it lawful for the governing body having control of the streets and highways of a municipality to require the owner of lands applying for their approval of a plan for filing, to agree that no lot shall be subdivided and no building shall be erected nearer to the street than the building line to be shown on the plan. A specialized type of zoning is Louisiana No. 118, which makes it unlawful for a white person to establish his home on property in a negro community except with the written consent of a majority of the negroes inhabiting the community, or for a negro to establish a home in a white community except on the same condition. Community includes every residence on either side of the street within 300 feet of the location of the property involved.

Something like peonage appears in Virginia 408. If any person with intent to injure or defraud his employer refuses to perform a contract of

employment for the cultivation of the soil or to return the value for which he has received value he is deemed guilty of larceny of the value so received, but the prosecution must be begun within 60 days of the breach of the contract. Louisiana No. 250 relies on a civil sanction, by making a crop lessee on shares liable for the value of the crop which might have been grown if he abandons the land after taking possession. Conversely, the owner is equally liable if he keeps the lessee from the premises. Any person who induces the lessee to violate the lease is responsible *in solido* with him.

A way of perpetuating testimony appears in Massachusetts 227, which provides for recording in the registry of deeds of a county where the land is situated statements " of a person's married or unmarried status, kinship or lack of kinship, or of the date of his birth or death, if relating to title to land." The record or a certified copy is admissible in evidence in support of the title to land in any Court. Virginia 64 permits a life tenant to compel the remainder-man by suit to join in a lease. The rents under such lease may be made payable direct to the person or persons entitled thereto for the time being. Mortgages come in for attention. Massachusetts 15 adds a sanction to the requirement that mortgages be recorded by limiting the exemption from taxation of mortgages of real estate to those " duly recorded." Mississippi 157 permits a debtor to stop a sale under a deed of trust, mortgage or other lien to secure instalment payments, under which failure to pay any instalment, interest, taxes or insurance premiums makes the whole debt due and collectable, if he pays the amounts due before sale. Virginia 434 requires a deed of assignment for the benefit of creditors to be recorded and that notice be given by the trustee, and requires notice to creditors named in the deed, of any sale. The Act also provides for the appointment of a new trustee by request of the majority of the unsecured creditors. Georgia p. 125 makes crop mortgages cover crops before they are planted when so stipulated. Louisiana No. 119 makes it unlawful for the owner of moveable property subject to chattel mortgages to take the property permanently out of the State without the written consent of the mortgagee. Violation of the Act is made a felony.

Commercial Regulations.—The States all appear to agree on the necessity for regulation of real estate brokers and salesmen. This year Virginia passes a Licensing Act, 46, creating a commission of three, one of whom must be a broker or salesman, to issue licences with power to suspend or revoke them for certain enumerated causes, one of which is unworthiness or incompetence. Kentucky's Act, 138, realizes the importance of a professional board by requiring that its three commissioners be appointed by the Governor from persons who have been real estate brokers or salesmen for at least ten years. This Act also apparently recognizes the importance of limiting the general power of the commission to refuse to grant or to cancel or suspend licences by expressly listing the causes on which it can act, but as there is included a blanket provision allowing suspension or revocation for any conduct constituting improper, fraudulent or dishonest dealing, the power of the board would not seem to be very narrowly limited. An interesting provision of the Act is that as a condition to the granting of a licence to a non-resident broker or salesman, he must file an irrevocable consent that suits may be commenced against him in any county " in which a cause of action may arise or in which the plaintiff may reside." New York 579 amends

the Act requiring licensing of real estate brokers by extending the operation of the Act to other localities by limiting licences to citizens or persons who have declared their intention and by permitting the commission to require proof that the applicant has a fair knowledge of English, of the legal effect of documents respecting his business and the obligations between principal and agent. Louisiana No. 136 re-enacting the Act regulating public accounting gives to the state board the power to administer the milder punishments of suspension and censure in addition to the revoking of certificates to practise as certified public accountants. The board is also required in hearings relating to discipline to act not only as judges but also investigators. Louisiana No. 248 creates a board of examiners of plumbers in cities. Appointments are to be made by the Governor from a list of eight names, four submitted to him by any recognized master plumbers' association and four by the journeymen's association. New York 326 adds to the law regulating the practice of veterinary medicine an interesting provision in respect to procedure on charges against a licensed veterinarian. He must be heard before the board of examiners, who are all members of the profession, and the licensing authority, which is non-professional, can only discipline him on the recommendation of the board. New Jersey 161 amends the Act providing for the suspension or revocation of licences to practise dentistry. The old law provided for revocation only on conviction of a crime involving moral turpitude. The new law specifies a number of additional causes, including the use of drugs or intoxicants to an extent rendering persons unfit for the practice of dentistry, wilful or gross malpractice or neglect, and fraudulent advertising. Louisiana No. 199 requires wholesale produce dealers to have licences issued by the Commissioner of Agriculture and to give bonds to the Commissioner to secure business. The Commissioner may investigate licences and may refuse or revoke licences for specified reasons, including combination to fix prices and a continued course of dealing which satisfies the commissioner of a dealer's inability properly to conduct his business or intent to deceive or defraud shippers. Action of the Commissioner refusing to grant or revoke licence is subject to review by certiorari. Licence fees shall be used by the Commissioner for encouraging the sale of farm products and securing honest treatment to farmers.

The legislation shows the tendency towards regulation of business in the interest of the consumer. An interesting instance of these regulations is New York 622, which fixes the weights of loaves of bread but exempts loaves where the net weight of the loaf and name of the manufacturer are plainly shown. Louisiana No. 148 defines ice cream and regulates its manufacture and sale. No. 201 regulates manufacture and sale of soft drinks, using the drastic enforcement device of requiring a permit and permitting its revocation by the State Board of Health. This device has the added advantage of providing for the cost of administration through fees. These ideas are included in No. 233 regulating the sale of insecticides by a tax on the product regulated and by requiring registration of brands with an analysis of the composition of the article with the power in an official to refuse registration.

The interest in farmers' co-operative associations still continues to occupy the attention of the Legislatures. New Jersey 12 is a substitute for the Act passed in 1920 to authorize the formation of such associations. The principal changes are that the new Act permits associations to be

formed with a capital stock and allows the by-laws to fix the liability of members for debts of the association, a liability which was fixed by the 1920 statute. New York 606 is the usual form of the Co-operative Agricultural Association Act. Mississippi 275 enforces the rights of the associations under their exclusive marketing contracts by permitting them to bring replevin for goods covered by the contracts and in such cases to be awarded liquidated damages fixed by the contract for a breach, although the defendant may be a purchaser from a member and therefore not a party to the contract. Kentucky 1 protects persons dealing with members by requiring the associations to give information as to whether specified persons are members or have signed its marketing agreement. Unless the information is furnished by the association it is presumed " in the absence of evidence to the contrary, in litigation between the association and the person making the inquiry, that such person was without notice that the person inquired about was a member of the association or had signed the agreement." C. 7 permits the making of crop mortgages on crops covered by marketing agreements, but provides that they shall not defeat the rights of the association to take delivery of the crop and requires the association to accept an assignment of his contract by the grower to the mortgagee. An interesting Act passed in Virginia, 34, and South Carolina p. 1072, authorizes the recording of marketing agreements entered into by farmers and co-operative associations, and makes the record constructive notice of the contract.

Mississippi 271 authorizes the formation of Farmers' Credit Associations and 272 makes express provision for such associations doing business with the Federal Credit Bank of New Orleans. Mississippi 270 is another interesting step to aid the farmer. It authorizes the issuing of negotiable warehouse receipts by a county warehouse inspector for cotton and other imperishable agricultural products if stored in a building on the farm where it was produced, if the building has been approved by the inspector as a warehouse. The products must be kept insured during the life of the receipt. Louisiana No. 24, giving a lien to vendors of cotton on all products of their cotton while they remain on the premises where manufactured, has also aid for farmers in view.

Massachusetts 228 makes the penalty for violation of the Food and Drugs Act apply also to rules and regulations made under the Act. In Louisiana the law allows a seller to sue for cancellation of sale in case the buyer does not pay the price. Act No. 108 adds that this right of cancellation shall be accessory of the credit representing the price and if it be held by more than one person all must join in the demand for cancellation, but if any refuse the others by paying the amount due the parties who refuse shall become subrogated to their rights. Act No. 116 amends a statute permitting modification of obligations of warranty, so that whether warranty be excluded or not the buyer shall become subrogated to the seller's rights and actions in warranty against all others. Massachusetts 151 amends the Act exempting parties to certain negotiable instruments from being adjudged trustees under the trustee process in respect to negotiable instruments. The old law made the exception apply to instruments " payable on time and not overdue." The new law relates to an instrument " which at the date of the writ was negotiable to a holder in due course under the provisions of chapter one hundred and seven."

Insurance.—The tendency to make motor-car insurance valid, even

in case of the insolvency of the insured, is applied on a wider scale by New Jersey 153, which requires all policies protecting against injury to person or property to contain a provision that insolvency or bankruptcy of the insured shall not release the carrier from payment of damages. Virginia 339 applies the same principle to policies against injury caused by animals or vehicles, and adds that if execution is returned unsatisfied against the tort feasor because of insolvency or bankruptcy an action may be maintained directly against the insurance carrier by the person entitled to damages.

Life insurance is the subject of Massachusetts 268, making a medical examination unnecessary for the issuance of a policy or policies aggregating $500 on one life, and the same State 268 substitutes for medical examination in cases of group insurance the inspection of the group of employees and their environment. New York extends group insurance, by 549, permitting coverage in one policy of the members of a unit of the National Guard issued to the Commanding General, if not less than 75 per cent. of the unit are so insured. The value of such insurance would largely depend on the provision for continuing the policy after the individual had left the Guard. Another form of mutual group insurance is the subject of New York 548, authorizing employees' mutual benefit associations among employees of an industrial corporation if 500 or more employees of a company having at least 3,000 join it. Massachusetts 190 protects policy-holders by making the proceeds of a life insurance policy not subject to judicial process or assignment while in the hands of the company, if the terms of the contract prohibit alienation or provide that the payments on the policy shall not be subject to the person's debts or judicial process. Companies are not required to segregate such funds, but may hold them as part of their general corporate funds. Mississippi 188 creates a fire insurance rate making bureau under a commission of three to be appointed, one each by the Governor, Attorney-General and Insurance Commissioner. Massachusetts 258 permits fire insurance companies to issue a single policy of insurance on which each company shall be severally liable for specified percentage of any loss or claim. The Act regulates the conditions of the contract and provides that service of process on any one of the companies is valid and binding upon all. Louisiana No. 18 requires foreign fire insurance companies in the State to pay a tax of $1 on each hundred dollars of premium on property within the limits of municipalities having regularly organized fire departments and requiring the treasurer to pay the money over to the respective municipalities for the up-keep of their fire departments. This Act is an interesting example of special taxation and also of the collection of taxation by the central Government and redistribution to the localities.

Corporations.—Non-par-value stock is approved in New Jersey 41, which permits public utility corporations to issue stock without par value. Louisiana No. 96 authorizes non-par-value stock issues except by banking, insurance corporations or building and loan associations. New York 237 permits the merger of two or more membership corporations. They previously had only the power of consolidating. The Act also transfers to the new corporation in case of consolidation or the corporation into which the others are merged all the rights of the old corporations and protects the rights of creditors of such corporations. The new corporation or the corporation into which the others are merged may promote any of the purposes or objects which could have been promoted

by any of the corporations consolidating or merging. New York 221 amends the law making it a crime for directors to declare dividends except " from surplus profits arising from the business of the corporation " by striking out the words " profits arising from the business of the corporation " so that any surplus may be used for the purpose of dividend. The same State, by 124, amends the Act requiring the filing of mortgages of stock corporations by providing that if no part of the mortgaged property be located within the State, the mortgage shall be filed in the office of the clerk of the county in which the corporation is domiciled. New York 41 amends the stock corporation law generally. A new section deals with the reduction of capital stock by permitting the excess over the amount to which the stock is reduced to be returned to the stockholders *pro rata*. Another interesting provision deals with the stockholders who are permitted to vote at a meeting. The former law permitted the by-laws to prescribe a period preceding the meeting during which no transfer of stock could be made on the books. The amendment allows the by-laws to authorize the board to fix a day prior to the date of the meeting as of which the right to vote shall be determined, thus permitting the transfer of stock to be continued. Louisiana No. 184 requires foreign corporations, except insurance corporations, to appoint a local agent for service of process as a condition precedent to doing business in the State.

Taxation, 1924.—The gasolene tax appears to increase in amount as it increases in popularity. The new law in Kentucky 120 fixes the tax at 3 cents a gallon on gasolene sold in the State at wholesale. Any other excise or licence tax on gasolene is prohibited. Wholesaling is defined to mean sales made for " resale or distribution or for use " and gasolene furnished or supplied for distribution within the State, whether the distributor be the same person who furnished it, " his agent, or employee, or another person." The interstate commerce feature is further considered by making the Act apply to persons who purchase or obtain the gasolene without the State and sell or distribute or use the same within the State. To avoid the evident possibility of double taxation, the Act expressly provides that the gasolene upon which the tax has once been paid is free for the future. The money is to be used for roads. South Carolina, p. 1193, levies also a 3-cents-a-gallon tax on " oil companies " doing an interstate business and selling, shipping, or distributing for purposes of sale within the State, gasolene or any substitute. The interstate commerce difficulty is met by requiring that the tax be paid only on gasolene sold or distributed for the purpose of sale, within the State, and by providing that the Act shall not " apply in case of interstate commerce." Mississippi 180 is a new means of enforcing the gasolene tax law. It requires common carriers to make quarterly reports to the state auditor of gasolene delivered in the State. The Motor Fuel Tax Act is amended to make it proof against the interstate commerce provision of the Constitution in Virginia 367 by authorizing the refund of taxes paid on any fuel sold to a resident or residents of another State for use without the State and delivery without the State. The Act also protects the Virginia jobbers in competition with other States. Louisiana No. 142 levies a gasolene tax of 2 cents a gallon on all gasolene or motor fuel sold in the State for domestic consumption. The money is to be used for the general highway fund.

A new State joins the group levying income-taxes. Mississippi 132

levies a graduated income-tax on resident individuals, corporations, partnerships, associations, trusts or estates and upon the income from property owned by a business done in the State by non-residents. A resident is any person domiciled in the State or who spends " in the aggregate more than six months in the year therein." A taxpayer may charge a loss in one year against income for succeeding year. Income of non-resident persons and corporations from sources within the State is defined. An exemption to all taxpayers of $1,000 is allowed, with $200 for each dependent; but the head of a family is allowed $200, which is also the total allowance for both husband and wife. An interesting section requires that the rules and regulations of the federal Treasury Department " relative to the Income-tax Act of 1921 " be used in construction of the Act. An interesting amendment to the South Carolina Income-tax Act, p. 1173, allows a credit to residents of the State of income accruing from other States or territories, if a tax was paid in such State or territory on the income at an equal or higher rate than prescribed in the Act, and if not, then a credit of the tax paid in such State or territory is allowed against the tax imposed by the Act. Another amendment establishes a method of determining the income derived from business done in the State by a foreign corporation or non-resident. It is in general such proportion of the net income derived from all sources as the " fair cash value " of real estate and tangible personal property used in the business in the State bore to the total of such property, with an interesting amendment that if the account-books of the foreign corporation or non-resident engaged in manufacture are so kept as to reflect truly the net income from business in the State, the tax may be computed on the book income. New York 54 brings the New York Personal Income-tax Law in line with the federal by raising the personal exemption of married people from $2,000 to $2,500. New York 329 is an interesting amendment to the business corporations income-tax law. It strikes out the former basis for calculating the amount of net income which was that shown in the return to the United States and defines net income to be " the total net income," including dividends and interest received from federal, state, municipal or other bonds, without deduction for taxes paid the United States or any foreign country on profits or net income and without deduction of any specific allowance by any taxing authority. Another section, however, establishes the rule that the net income " is presumably the same as the net income which a corporation is required to report to the United States, plus dividends and interest on bonds without deduction for federal or foreign profit or income-taxes " and the net income of a corporation not organized under the laws of any American State is the entire net income " in fact " and determined as provided in the Act, rather than the income earned in the United States or returned to the Treasury Department. New York 311 is another amendment of the Corporation Income Tax Law. The former law required the corporation which acquired by merger or consolidation " the major portion of the assets of another corporation " to include the net income of such corporation as part of its own net income. C. 311 amends this Act by making the rule apply where the major portion of the " actively employed " assets are so acquired. Massachusetts 26 repeals the provisions of 254 of the Act of 1923, allowing a tax to be paid on the consolidated return of income to the federal government in the case of certain corporations. Massachusetts 321 makes machinery of corporations

subject to the corporation tax, taxable where it is situated as other property. Formerly it was exempt.

Miscellaneous Police Legislation.—Eugenics this year appears in Virginia 394, which provides for the sterilization of inmates of state institutions who are afflicted with hereditary mental disability, especially insanity or feeble-mindedness. The inmate must have notice and hearing before a special board, and an appeal to the County Court on his behalf from the order of the special board is allowed.

The State of Louisiana, by No. 2, extends the inquisitional power to fraternal, charitable, patriotic and other non-business organizations except churches or the National Guard. Lists of members and officers residing in the State must be annually filed, and the Act is enforced by prohibiting meetings until the lists are filed and making it a misdemeanour for any member to call or even attend a prohibited meeting. The Attorney-General is directed to proceed to dissolve organizations violating the Act and prevent prohibited meetings. Nos. 3 and 4 of the same State punish the wearing of hoods or devices to conceal the identity. No. 3 makes it a misdemeanour to wear such a device in any public road or place, except for *Mardi Gras*, and under No. 4 it is a felony for a disguised person to attempt to inflict, or to inflict, bodily injury on or make threats against another person or to carry a concealed weapon.

Virginia 355 is a step towards the regulation of the soliciting of charitable contributions. It requires that the person, corporation or association soliciting contributions must keep books showing the money collected and disbursed, not by totals, but in items. The books must be opened to the inspection of the State Accountant and Attorney-General. The act does not apply to churches, political parties, purely business enterprises or cases where less than 125 persons are solicited. Massachusetts 219 makes it a misdemeanour for any person wearing the uniform of the Army or Navy or the National Guard to solicit alms or sell merchandise or receive contributions or solicit subscriptions to any book, paper or magazine. The anti-billboard crusaders won two skirmishes in so widely separated States as Massachusetts and Louisiana. Massachusetts 490 makes billboards erected without official permit nuisances and gives the state authority having power to issue permits the same right to abate which is given to a town board of health. Louisiana No. 23 punishes posting of notices or signboards on swamp and overflow lands owned by the State or public bodies. Experience gained in prohibition enforcement may have dictated Massachusetts 94, which permits the issue of search warrants to search for oleomargarine coloured in imitation of butter and materials to be used for the purpose of making such oleomargarine. Prohibition has not yet relieved legislation of the necessities of the consequences of over-indulgence of liquor, as bears witness New York 550 amending the Insanity Law in a provision giving an inebriate the right to apply for an order committing him for treatment. Formerly only certain near relatives could make application. Louisiana No. 245 prohibits the sale at public auction of jewellery, watches, clocks, precious stones or gold, silver or plated ware, except by judicial sale or by executors or administrators or by licensed pawn-brokers or as unredeemed pledges, with certain limited exceptions, notably judicial sales and sales by retail or wholesale merchants. No person may sell stocks of such merchandise for another without filing an inventory with the clerk of the Court. Violation is made a misdemeanour.

Travellers will be interested in New York 506, which amends the law in respect to innkeepers' liabilities by limiting the liability to $500 or in certain cases $100 unless the loss occurred through the fault or negligence of the innkeeper. The general public will note the failure of an attempted reform signalled by Georgia, p. 202, repealing the Act of 1918 prohibiting tips. Another reform in the interest of theatre-goers is making progress. Massachusetts 497 requires the price of tickets of admission to theatres or places of public amusement to appear on the ticket and also requires the annual licensing of persons engaged in reselling such tickets with the right of the commissioner to revoke or suspend such licences. The licensees may not charge more than 50 cents in advance of the printed price of a ticket. The Act does not apply to certain entertainments for eleemosynary purposes.

South Carolina, p. 1056, permits any landowner or licensee to ship from the State during any one week not over a day's bag limit on licence from the chief game warden, which shall be given only if it appears that the shipment is not made for sale.

Banks and Banking.—The importance of cheques in the commercial life of the country is brought out by the amount of legislation regulating them. Louisiana No. 75 and Virginia 335 give banks the option to refuse payment of a cheque presented one year after date unless expressly instructed by the drawer or maker to pay it. By No. 76 Louisiana provides that no stop payment notice on cheques or drafts shall be in effect for more than 90 days unless renewed. Virginia 115 makes it a misdemeanour for an officer or employee of a bank to certify a cheque when the drawer has not on deposit the necessary funds or to certify a cheque and fail forthwith to charge the amount against the account of the drawer. Mississippi 172 amends the Act in respect to the making and issuing of cheques against insufficient funds by punishing the person who, having issued the cheque or order for payment of money on the bank, shall withdraw his deposit without leaving sufficient sum to cover the cheque. Georgia, p. 194, makes it a crime to make a cheque with knowledge that there are not funds on credit to meet it. Virginia 337 frees from liability to a depositor a bank which has paid a forged or raised cheque issued in the name of the depositor, unless the depositor notifies the bank that the cheque is forged or raised six months after notice to him that his vouchers for the period during which the payment is made are ready for delivery, or six months after the return to him of the voucher representing such payment. Under Virginia 336, any bank may forward a cheque, note or other negotiable instrument for collection to the bank on which it is drawn or made payable, and the failure of the payer bank to account for the proceeds shall not render the forwarding bank liable if it has used due diligence. Kentucky 12 provides that a cheque drawn on a banking or trust company, unless specified to the contrary on its face, is payable at the option of the drawee in exchange drawn on the federal reserve deposits of the drawee, when the cheque is presented through a federal reserve bank, post office or express company. It is a misdemeanour for any person other than the marker to make such specification on a cheque.

Louisiana No. 83 allows payments of deposits made in banks by one person in trust for another to be paid to the person for whom the deposit was made on the death of the depositor unless another arrangement was made. The same State by No. 84 prohibits banks or trust companies

from hypothecating assets to secure any depositor except municipalities or public boards if required by statute. New Jersey 48 authorizes an association of employees of a common employer whose place of employment is within the State to organize a credit union to receive deposits of its members and to make loans to its members. The Small Loans Act shall not apply to these corporations. Mississippi 117 and Louisiana No. 40 authorize the formation of credit unions.

Education.—The requirement that the Constitution be taught in the schools is made law in New York 64 and South Carolina, p. 1186. New York allows enforcement of the Act by withholding state school money for failure to provide instruction. South Carolina has a different method of enforcement, as it makes "unlawful neglect or failure" on the part of the head of any institution of learning to carry out the Act sufficient cause for his dismissal and prohibits the giving of certificates of graduation to a student in any school, college, or university supported by public funds, unless he passes a satisfactory examination on the Constitution. The New York Act applies to both public and private schools. An important law in New York 614 establishes the rule of equal pay for equal work for teachers of either sex. A degree of control over the incorporation of private schools is granted the commissioner of education by 308 by requiring the consent of the commissioner of education to their incorporation. An interesting step towards the betterment of public health through the schools in the counties is authorized by 194 in New York, which permits the establishment of school hygiene districts by the board of supervisors in any county and provides for a district director of school hygiene to exercise general supervision over medical work in the schools. Mississippi 283 allows a custom, which is becoming more common, of codifying various branches of the law by codifying the school law of the State.

Health.—Health administration is the subject of Massachusetts 180, amending the law permitting health regulations to be made by the boards of health by no longer requiring approval by the Attorney-General of regulations providing a penalty for violation. New York 325 grants the Commissioner of Health power to create health districts comprised exclusively of lands "owned by or held in trust for the people of the State" and giving him in such districts all the powers of the local health board. The principal application of this Act will be to state forests used principally for recreation by transients. It divides authority over the state forests between the Commissioner of Conservation and the Commissioner of Health, each in his own field.

The treatment by the State of illness is recognized by several Legislatures. Notably, New York 472 authorizes medical and surgical care at the expense of the public for children under sixteen, yet allows the care to be given only with the consent of the parent or guardian. The same State in 188 authorizes the Commissioner of Education to appoint a state specialist for eyes and ears to assist the state medical inspector in making eye and ear tests in public schools. Massachusetts 248 permits cities or towns to establish children's health camps for children of school age. The location and construction plans of the camp must be approved by the State Health Department, which has also the power of inspection. Kentucky 106 authorizes district sanatoria under the supervision of the State Board of Health, to be created by the fiscal Court of the county or by action of the voters of the county after petition.

New Jersey 16 authorizes counties of the first class to build and maintain maternity hospitals.

Another phase of public aid for invalids is dealt with in New York 109. It prevents a burden being created on certain mountain counties by the influx of persons affected with tuberculosis by requiring in certain specified counties a residence of five years before settlement under the poor law is acquired.

Aliens.—Aliens are limited in respect to the practice of professions by Massachusetts 53, which permits the granting of a certificate of registry as a pharmacist to citizens of the United States, and New York 579, amending the law licensing real estate brokers which forbids the issuance of a licence except to citizens of the United States or declarants and permits the commission to revoke the licence of a declarant who has not been naturalized within five years of his declaration. Mississippi 154 requires proof of naturalization of foreign-born persons to be filed with the county clerk before such person registers or offers to vote. A record is to be kept by the clerk in a special book. It is made unlawful for any alien to register or vote at any election in the State. Louisiana No. 136 allows only citizens of the United States to practise as certified public accountants.

Marriage and Divorce.—South Carolina, p. 1135, requires marriage licences to be in duplicate, one to be delivered to the contracting parties by the officer performing the wedding ceremony and the other to be sent by him to the officer who issued the licence. Formerly where the marriage was without the State and the parties became residents of the State and the plaintiff was a resident when the divorce action was commenced the Courts of New York had jurisdiction. C. 156 amends this section to authorize the jurisdiction in such case if the plaintiff is a resident of the State one year, so it is no longer necessary that the parties have lived in the State during marriage. In Mississippi the law permits the chancellor to forbid the remarriage of the guilty party in the case of divorce for adultery. C. 163 permits the chancellor to remove the disability after one year. New York 156 modifies the requirements for maintenance of action to annul a marriage. Formerly the parties, if married without the State, must both have become residents of the State and continued as residents for at least a year, and the plaintiff must be such a resident when the action is commenced. Under 156 the requirement of residence of the parties is omitted so that it is sufficient for the future if the plaintiff " is and has been a resident of the State" one year when the action is commenced. By Georgia, p. 53, the law relating to the issuing of marriage licences is amended to cover the case of non-residents. The former law required licences to be granted in the county where the female to be married resided. The amendment permits the licence to be granted in the county in which the ceremony is to be performed, if she is a non-resident. The Act also adds the requirement that the issuing officer must get answers under oath in respect to various matters, particularly as to whether the parties are white or coloured, have been previously married, whether there is a legal impediment and nationality of parent. An interesting Act is Virginia 371, " An Act to Preserve Racial Integrity." The Act deals with birth certificates and marriage licences. It punishes by confinement in the penitentiary up to one year, the making of a false statement in the birth certificate, including that as to race, and forbids the clerk to grant a marriage

licence, unless he is reasonably sure of the colour of the parties. The act will interest ethnologists by its definition of a white person as one who has " no trace of any blood other than the Caucasian," except one-sixteenth or less of American Indian blood. All others would appear to be coloured under the law of Virginia.

EDITORIAL NOTE.

Liability for acts by Government Officials in the United States.—In view of the movement of legal opinion in this country it is particularly interesting to note that a Bill entitled Federal Tort Claims Bill is at present before the House of Representatives.

The American law on the subject, like our own, has been for a long time in a thoroughly unsatisfactory state. Broadly speaking the Government of the United States, like the King, can do no wrong, and this is true with some slight reservations of the Governments of the separate States. But this harsh rule has been tempered in America by some recent legislation.

The Federal Tort Claims Act of December 28, 1922, allows tort claims to be settled by the heads of departments up to $1,000, in cases of damages to property and an act of the same date allows the Secretary of the Navy to settle claims for damages to private property arising from collisions with naval vessels up to $3,000. But if the case does not fall in one of these classes the victim of the wrongdoing of an official has no redress unless he can get a Bill introduced by a Congressman or Senator and reported upon favourably by the Committee on Claims. This system has completely broken down. Myriads of such claim Bills are brought and the work of the Committee is hopelessly in arrears. Moreover, if the Bill is reported to the House any single member of the House who objects can get the Bill struck off the calendar and he need give no reason therefor. As Congressman Cellar puts it, " He may not like the member who introduced the Bill because he wears a red necktie."

The present Bill has been drafted by Professor E. M. Borchard of Yale, who has been a doughty champion of reform of the law.

The Bill raises the limit of $1,000 recoverable on account of damage to property as provided in the Act of December 28, 1922, to $5,000. Up to $5,000 the department can deal with it. Where the amount claimed exceeds that sum jurisdiction is conferred upon the Court of Claims. The Bill gives for the first time a remedy in cases of personal injury or death, the maximum amount in either case being $5,000.

The following constitute bars to recovery: an injury or death which results from the claimant being intoxicated or under the influence of drugs; contributory negligence, however slight; and claimant's intention to bring about injury or death to himself or to another. Furthermore, unreasonable refusal or negligent failure at any time to submit to or procure medical or surgical treatment diminishes compensation to the extent that the injury is continued or aggravated or the death is caused by the refusal or failure. The negligence or wrongful act or omission of the officer or employee of the Government must have been within the scope of his office or employment. The term " officer or employee of the Government " includes the following: (1) officers of the Government in the constitutional sense; (2) employees of the

Government; (3) members of the military or naval forces of the United States; and (4) persons other than officers or employees acting in an official capacity for the Federal Government, such as examining surgeons under pension laws, merchant appraisers under the customs laws, and others temporarily in the service of the Government, and State officers while also serving as Federal agents. Further, the term "officer or employee of the Government" covers officers and employees of any "department or establishment"—a wide term which includes among others the following: (1) an executive department; (2) an independent establishment (other than a corporation acting as a governmental instrumentality or agency) that is neither a part of the legislative nor a part of the judicial branch of the Government, such as, for instance, the various independent boards and commissions, the Smithsonian Institution, and the Comptroller-General's office; (3) corporate instrumentalities or agencies in which the United States owns 51 per cent. or more of the voting securities, such as the United States Emergency Fleet Corporation, the Alaska Railroad and the Panama Railroad.

There are excluded from the scope of the Bill: (1) officers and employees of agencies in the judicial branches and in the legislative branch of government, including the officers and employees of the Congress, the Government Printing Office, and the Library of Congress; (2) officers and employees of the District of Columbia, the territories or the possessions; officers and employees of corporations, such as land grant railroads, which serve as Federal instrumentalities under certain circumstances but which the Federal Government does not control through ownership of 51 per cent. or more of the local securities.

We believe the chances of the Bill passing the House this Session are not very great. A Bill of much narrower scope is before the Senate, and it is problematical whether the two Houses will agree on a unified Bill. We hope to have an article on the subject by Professor Borchard in our next number.

F. P. W.

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